

IN THE MATTER OF
THE APPLICATION OF
CARROLL COLEMAN, ET UX
FOR A VARIANCE ON PROPERTY
LOCATED ON THE SOUTH SIDE OF
DREXEL ROAD, 310' E OF THE
CENTERLINE OF KIRKLAND ROAD
(1731 DREXEL ROAD)
12TH ELECTION DISTRICT
7TH COUNCILMANIC DISTRICT

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO. 95-366-A

* * * * *

O P I N I O N

This matter comes before the Board as a Petition for Administrative Variance for the property known as 1731 Drexel Road, located in the subdivision of Edgepoint between Wise Avenue and North Point Boulevard. The Petitioners are the property owners, Carroll and Rosalie Coleman and they were represented by Robert C. Turner, Esquire. Mr. David M. Warfel, Mr. Steven Wall and Mrs. Jean Wall, Protestants, appeared without counsel.

The Petitioners seek relief from Section 400.3 of the Baltimore County Zoning Regulations (BCZR) to permit an existing garage with a height of 21 feet in lieu of the maximum limit of 15 feet. The variance was denied below after hearing by Timothy M. Kotroco, Deputy Zoning Commissioner, for Baltimore County.

Evidence and testimony was received by the Board. Melinda Coleman, one of the Petitioners, testified that the home on the subject property was totally destroyed by a fire in 1991. The home was rebuilt. The present garage occupies the same footprint as always utilized by that structure and was the same width and length now as it has always been. Noting that virtually no property in the area, on account of its closeness to the water's edge was built with a basement, she related that, with three children, there was always a need for additional storage. She stated that, suffering from a sagging roof, the garage need repair anyway, and so in

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January, 1995, the subject addition was built. Under further examination, she stated that the additional space would be used for storage and household goods only and that the family's only alternative, had been to rent a self-storage location for \$100.00 per month for the previous two years.

Mr. Martin Staley, a neighbor since 1971, testified that the garage had been at its present location since he was twelve years old. Noting that the front of the Coleman home faced the back of his property, he had not seen nor been aware of any motor vehicle repair work being carried out on the Coleman property. Moreover, he related that Mr. Coleman had assisted him with some car repairs previously; but that the actual work had been done at a repair facility at another location.

Petitioner, Carroll Coleman, III, testified he was an Assistant Service Manager at Fox Chevrolet. He noted he did no repair work at his home, that there was no repair equipment located on the property, and that the only tools present, were his personal hand tools.

He confirmed that he had remodeled the garage in January, 1995, without the benefit of first obtaining a building permit. A new roof was added, along with additional space, resulting in the present 21 foot height of the structure. He also confirmed that a Stop Work Order was issued by the Department of Permits and Licensing and that thereafter, a Petition for Variance was filed. He described the structure as being for storage only and confirmed that since most of the homes in the area were unable to have basements, he felt the additional storage space was necessary and appropriate.

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Jean Wall, a resident on Drexel Road for 27 years, testified on behalf of the Protestants. She related that it was her belief traffic had increased since the garage had been rebuilt by the Petitioners and she had seen on several occasions a "rollback" truck with cars upon it at the site. Further, she testified she had heard various engine and what she described as "presser" noises which she believed came from the Petitioner's property.

She also testified that storage was always a difficulty, as there were no basements in most of the homes in the area due to its proximity to the water.

Under cross-examination, she agreed that there was a factory and storage area on the property directly behind the Petitioners, but did not believe the noise emanated from that location.

Mr. Coleman testified on rebuttal that there were several factories on the road and in the area and re-stated that there was no machinery for the repair of vehicles in the garage. He suggested that the sump pump under his property might be the source of the sounds noted by Mrs. Wall. He specifically denied that any "rollback" truck had been on the property.

The power to grant variances is derived from Section 307 of the BCZR. Section 307.1 says in part that a variance such as the one requested here would be granted "...only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance with the zoning regulations for Baltimore County would result in practical difficulty or unreasonable hardship."

The leading Maryland case dealing directly with the burden of proof in a variance matter is Cromwell v. Ward, 102 Md. App. 691

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(1995); 651 A. 2nd 424. In overturning the affirmation by the Circuit Court of the granting of a height variance by this Board of Appeals, the Court stated "... The Baltimore County ordinance requires "conditions ... peculiar to the land ... and ... practical difficulty ..." Both must exist. ... However, as is clear from the language of the Baltimore County ordinance, the initial factor that must be established before the practical difficulties, if any, are addressed, is the abnormal impact the ordinance has on a specific piece of property because of the peculiarity and uniqueness of that piece of property, not the uniqueness or peculiarity of the practical difficulties alleged to exist. (emphasis supplied) It is only when the uniqueness is first established that we then concern ourselves with the practical difficulties...." Id. at 698

In requiring a pre-requisite finding of "uniqueness", the Court defined the term and stated, "In the zoning context the 'unique' aspect of a variance requirement does not refer to the extent of improvements upon the property, or upon neighboring property. 'Uniqueness' of a property for zoning purposes requires that the subject property has an inherent characteristic not shared by other properties in the area, i.e., its shape, topography, subsurface condition, environmental factors, historical significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or other similar restrictions...." Id. at 710

The Board has reviewed the testimony and exhibits on the basis of and in light of the applicable regulations and case law. We believe that Petitioners have failed completely to establish any

OFFICIALS OF THE BOARD OF APPEALS

"uniqueness" of the subject property such that it would satisfy the first prong of the evidentiary requirements set forth in Cromwell. There was ample testimony from Petitioners as well as Protestants that there are few if any basements in the area due to its location and adjacent water level and that the need for storage is a problem faced by virtually all local residents. Petitioners offered no testimony which establishes for this Board that the Coleman property was in any way different than others in the same area.

Petitioner argues that the construction was necessary and in the spirit, if not strict compliance with zoning regulations. The Court of Special Appeals rejected that argument, saying "It is not the purpose of variance procedures to effect a legalization of a property owner's intentional or unintentional violations of zoning requirements. When administrative entities such as zoning authorities take it upon themselves to ignore the provisions of the statutes enacted by the legislative branch of government, they substitute their policies for those of the policymakers. That is improper...." Id. at 726

This Board concurs and denies Petitioners request for variance.

O R D E R

IT IS THEREFORE this 20th day of June, 1996 by the County Board of Appeals of Baltimore County

ORDERED that the Petition for Administrative Variance filed by the property owners, CARROLL AND ROSALIE COLEMAN, Petitioners, for the property known as 1731 Drexel Road, located in the subdivision of Edgepoint between Wise Avenue and North Boulevard, to permit existing garage height of 21 feet in lieu of maximum permitted 15

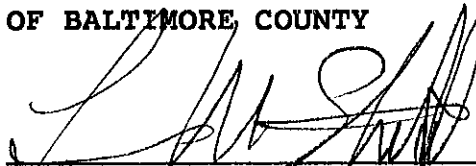
MICROFILMED


feet, be and is hereby DENIED; and it is further

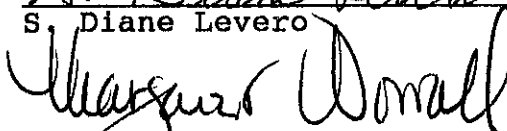
ORDERED that the subject structure be brought into compliance with the zoning regulations within Ninety (90) days of the date of this Order.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY



Lawrence M. Stahl, Acting Chairman

S. Diane Levero

Margaret Worrall

MICROFILMED



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

June 20, 1996

Robert C. Turner, Esquire
POLOVOY & MCCOY
216 Schilling Circle
Hunt Valley, MD 21030

RE: Case No. 95-366-A
Carroll Coleman, et ux - Petitioners

Dear Mr. Turner:

Enclosed please find a copy of the final Opinion and Order issued this date by the County Board of Appeals of Baltimore County in the subject matter.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the Maryland Rules and Procedure. If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

A handwritten signature in cursive script, reading "Charlotte E. Radcliffe".

Charlotte E. Radcliffe
Legal Secretary

Enclosure

cc: Mr. & Mrs. Carroll Coleman
Mr. David M. Warfel
Mr. Steven Wall
Chesapeake Bay Critical Area Commission
People's Counsel for Baltimore County
Pat Keller
Lawrence E. Schmidt
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

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IN RE: PETITION FOR ADMIN. VARIANCE
S/S Drexel Road, 310' E of the
c/l of Kirkland Road
(1731 Drexel Road)
12th Election District
7th Councilmanic District

Carroll Coleman, et ux
Petitioners

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 95-366-A
*

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Administrative Variance for that property known as 1731 Drexel Road, located in the subdivision of Edgepoint between Wise Avenue and North Point Boulevard. The Petition was filed by the property owners, Carroll and Rosalie Coleman, through the Administrative Variance process; however, upon receipt of a Petition Against Zoning Exception which had been signed by many of the Petitioners' neighbors, the Zoning Commissioner deemed it necessary to hold a public hearing to determine the appropriateness of the relief requested. The Petitioners seek relief from Section 400.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an existing garage with a height of 21 feet in lieu of the maximum permitted 15 feet. The subject property and relief sought are more particularly described on the site plan submitted and accepted into evidence as Petitioner's Exhibit 1.

Appearing at the requisite hearing in support of the Petition were Carroll and Rosalie Coleman, property owners, and Jim McKinney, zoning consultant. Appearing as Protestants in the matter were David M. Warfel and Steven Wall, nearby residents of the area.

Testimony and evidence offered revealed that the subject property consists of 0.21 acres, more or less, zoned D.R. 5.5 and is improved with a 1.5 story dwelling with an attached deck which extends to an above-ground

ORDER RECEIVED FOR FILING
Date 7/10/95
By [Signature]

swimming pool, a shed, and a detached garage, which is the subject of this request. Testimony revealed that the Petitioner commenced construction of the subject garage over the Martin Luther King Holiday weekend in January, 1995 without benefit of a building permit. Upon receipt of a Stop Work Order from the Department of Permits and Licenses, Mr. Coleman filed the instant Petition to approve the height of the garage. Mr. Coleman testified that the subject garage existed on the property, but that he removed the original roof, remodeled the walls and added an additional room on top of the structure to provide needed storage space. The new structure stands at a height of 21 feet. The Petitioners have requested the variance to legitimize the existing structure.

As noted above, two of the Petitioners' neighbors appeared in opposition to the relief requested. These neighbors are very much concerned over the intended use of the subject garage by the Petitioner. They testified that Mr. Coleman owns and operates an automotive repair and towing business and that on occasion, the Petitioner has brought trucks with automobiles in tow to the site. They presented photographs of the property depicting the garage in question as well as a roll-back tow truck which had one automobile loaded thereon and one in tow. The Protestants are concerned that commercial traffic associated with the Petitioner's business will pose a safety issue to the children in this area. They are also concerned that the Petitioner will attempt to perform service work on vehicles inside the garage. Lastly, the Protestants believe that the Petitioner constructed the garage in total disregard for the law by not obtaining a building permit. They do not recall that a garage existed in the rear yard and believe that the entire structure was newly built. They

recalled that the shell for the garage was erected over the holiday weekend celebrating the birthday of Martin Luther King, Jr.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial justice to the applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

After due consideration of the testimony and evidence offered by both the Petitioners and the Protestants, I am persuaded to deny the variance. The Petitioners have failed to satisfy the burden imposed on them in order for a variance to be granted. There was insufficient testimony and evidence to support the necessity of a variance to height restrictions. Furthermore, it was noted in the file that although a Stop Work Order had been issued, the Petitioner continued construction of the subject garage without benefit of a building permit. The Petitioners have failed to show that compliance would unreasonably prevent the use of the property or be unnecessarily burdensome. Therefore, the variance must be denied.

ORDER RECEIVED FOR FILING

Date

By

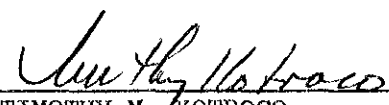
Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be denied.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 10th day of July, 1995 that the Petition for Administrative Variance seeking relief from Section 400.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an existing garage with a height of 21 feet in lieu of the maximum permitted 15 feet, in accordance with Petitioner's Exhibit 1, be and is hereby DENIED; and,

IT IS FURTHER ORDERED that the subject structure be brought into compliance with the zoning regulations within sixty (60) days of the date of this Order; and,

IT IS FURTHER ORDERED that no automotive service work shall be performed on the premises, nor shall the operation of any commercial enterprise take place on the subject property; and,

IT IS FURTHER ORDERED that the Petitioners shall have thirty (30) days from the date of this Order to file an appeal of this decision.


TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

ORDERED FOR FILING
DATE 7/10/95
BY [Signature]

RECORDED

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning



Suite 112 Courthouse
400 Washington Avenue
Towson, MD 21204

July 10, 1995

(410) 887-4386

Mr. & Mrs. Carroll Coleman
1731 Drexel Road
Baltimore, Maryland 21222

RE: PETITION FOR ADMIN. VARIANCE
S/S Drexel Road, 310' E of the c/l of Kirkland Road
(1731 Drexel Road)
12th Election District - 7th Councilmanic District
Carroll Coleman, et ux - Petitioners
Case No. 95-366-A

Dear Mr. & Mrs. Coleman:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Administrative Variance has been denied in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Permits and Development Management office at 887-3391.

Very truly yours,


TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

cc: Mr. David M. Warfel
1724 Drexel Road, Baltimore, Md. 21222

Mr. Steven Wall
1723 Drexel Road, Baltimore, Md. 21222

Chesapeake Bay Critical Areas Commission
45 Calvert Street, 2nd Floor, Annapolis, Md. 21401

DEPRM; People's Counsel; Case File



1 copy



Petition for Administrative Variance

95-366-A

to the Zoning Commissioner of Baltimore County

for the property located at 1731 DREXEL ROAD
which is presently zoned D.R. 5.5

This Petition shall be filed with the Office of Zoning Administration & Development Management.

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) 400.3

To permit an existing garage of 21 feet high for storage use in lieu of the required 15 feet.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty)

We desperately need storage space. I can not meet the impervious surface requirements to add another building on my property so I would like approval for an exemption to the height restriction on an accessory building (garage).

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition

Contract Purchaser/Lessee

Legal Owner(s)

(Type or Print Name)

Carroll Coleman
(Type or Print Name)

Signature

Signature

Address

Rosalie Coleman
(Type or Print Name)

City

State

Zipcode

Signature

Attorney for Petitioner

(Type or Print Name)

Address

Phone No

Signature

City

State

Zipcode

Name, Address and phone number of representative to be contacted

Address

Phone No

Name

City

State

Zipcode

Address

Phone No

A Public Hearing having been requested and/or found to be required, it is ordered by the Zoning Commissioner of Baltimore County, this ____ day of _____, 19____ that the subject matter of this petition be set for a public hearing, advertised, as required by the Zoning Regulations of Baltimore County, in two newspapers of general circulation throughout Baltimore County, and that the property be reposted

Zoning Commissioner of Baltimore County

REVIEWED BY: RT

DATE: 4-17-95

ESTIMATED POSTING DATE: 4-30-95

Printed with Soybean Ink
on Recycled Paper

MICROFILMED M #: 402
362

ORDER RECEIVED FOR FILING
Date 4/19/95
By [Signature]

Affidavit in support of Administrative Variance

The undersigned hereby affirms under the penalties of perjury to the Zoning Commissioner of Baltimore County, as follows:

That the information herein given is within the personal knowledge of the Affiant(s) and that Affiant(s) is/are competent to testify thereto in the event that a public hearing is scheduled in the future with regard thereto.

That the Affiant(s) does/do presently reside at 1731 DREXEL ROAD
address

Baltimore
City

MD
State

21222
Zip Code

That based upon personal knowledge, the following are the facts upon which I/we base the request for an Administrative Variance at the above address: (indicate hardship or practical difficulty)

I desperately need storage space. I can not meet the
impervious service requirements to add another building on
my property so I would like approval for an exemption to
the height restriction on an accessory building (garage).

That Affiant(s) acknowledge(s) that if a protest is filed, Affiant(s) will be required to pay a reposting and advertising fee and may be required to provide additional information.

Carroll Coleman
(signature)

Carroll Coleman
(type or print name)



Rosalie Coleman
(signature)

Rosalie Coleman
(type or print name)

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY, this 13 day of Feb, 1995, before me, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared

Carroll Coleman & Rosalie Coleman

the Affiants(s) herein, personally known or satisfactorily identified to me as such Affiant(s), and made oath in due form of law that the matters and facts hereinabove set forth are true and correct to the best of his/her/their knowledge and belief.

AS WITNESS my hand and Notarial Seal.

2/13/95
date

[Signature]
NOTARY PUBLIC

My Commission Expires:

EXAMPLE 3 - Zoning Description

- 3 copies

Three copies of the zoning description of your property are required. This is a sample to help you with the description - DO NOT USE THIS FORM FOR "FILL-IN THE BLANK". Type or print the description on 8-1/2" x 11" paper. COPIES OF DEEDS CANNOT BE USED FOR THE DESCRIPTION. The zoning description must be in the following form:

ZONING DESCRIPTION FOR 1731 DREXEL RD
(address)

Beginning at a point on the SOUTH side of DREXEL RD
(north, south, east or west) (name of street)

Drexel Rd which is 50'
street on which property fronts) (number of feet of right-of-way width)

wide at the distance of 310' ± EAST of the
(number of feet) (north, south, east or west)

centerline of the nearest improved intersecting street

(name of street)

which is 50' wide. *Being Lot # 12,
(number of feet of right-of-way width)

Block C, Section # in the subdivision of EDGE POINT
(name of subdivision)

as recorded in Baltimore County Plat Book # 18, Folio # 18, containing

 . Also known as 1731 DREXEL RD
(square feet or acres) (property address)

and located in the 12 Election District, 7 Councilmanic District.

*If your property is not recorded by Plat Book and Folio Number, then DO NOT attempt to use the Lot, Block and Subdivision description as shown, instead state: "As recorded in Deed Liber , Folio " and include the measurements and directions (metes and bounds only) here and on the plat in the correct location.

Typical metes and bounds: N.87 12' 13" E. 321.1 ft., S.18 27' 03" E.87.2 ft., S.62 19' 00" W. 318 ft., and N.08 15' 22" W. 80 ft. to the place of beginning.

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

95-366

District 12th

Date of Posting 4/29/95

Posted for: Variance

Petitioner: Carroll & Rosalie Coleman

Location of property: 1731 Drexel Rd. S/S

Location of Signs: Facing roadway for property being zoned

Remarks: _____

Posted by M. H. Haley

Signature

Date of return: 5/5/95

Number of Signs: 1

MICROFILMED

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

Case: #95-366-A
(Item 362)
1731 Drexel Road
S/S Drexel Road, 310' +/-
E of 4th Kindred Road
12th Election District
7th Councilmanic

Legal Owner(s):
Carroll Coleman and
Roselle Coleman
Hearing: Tuesday,
June 20, 1995 at 9:00
a.m. in Rm. 118, Old
Courthouse.

Variance to permit an existing garage of 21 feet high for storage use in lieu of the required 15 feet.

LAWRENCE E. SCHMIDT
Zoning Commissioner for
Baltimore County

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Call 887-3353.

(2) For information concerning the File and/or Hearing, Please Call 887-3391.
6/030 June 1.

CERTIFICATE OF PUBLICATION

TOWSON, MD.,

6/1, 1995

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 6/1, 1995.

THE JEFFERSONIAN,

A. Henrichson

LEGAL AD. - TOWSON

~~Publication~~

MICROFILMED

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

95-366-A

District 12th Date of Posting 4/4/95

Posted for: Variance

Petitioner: Carroll & Rosalia Coleman

Location of property: 1731 Draxel Rd, S/S

Location of Signs: Facing roadway on property being zoned

Remarks: _____

Posted by [Signature] Date of return: 6/8/95
Signature

Number of Signs: 1



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Baltimore County
Zoning Administration &
Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

receipt

95-366-A

Account: R-001-6150

Number

~~1071~~ 362

Date 4-17-95

1731 DREXEL RD,
BALTO. MD. 21222

010 -- ADM. VARIANCE -- \$ 50.00

080 -- POSTING OF SIGN -- \$ 35.00

TOTAL -- \$ 85.00

MICROFILMED

Please Make Checks Payable To: Baltimore County

Cashier Validation

95 AUG 11 PM 12:46

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

95-366-17

District 15th Date of Posting 8/5/95

Posted for: Appeal

Petitioner: Carroll Coleman

Location of property: 1731 Drexel Rd.

Location of Signs: Facing roadway, on property being appealed

Remarks: _____

Posted by M. Kelly Date of return: 8/12/95
Signature

Number of Signs: 1

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BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No.

DATE 5-31-95 ACCOUNT R-001-6150

AMOUNT \$ 35

RECEIVED FROM: Carroll Coleman, III MICROFILMED

FOR: Reposting 95-366-A

RECEIVED BY: [Signature]
OR: DATE 31-95

VALIDATION OR SIGNATURE OF CASHIER

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No.

DATE August 1, 1995 ACCOUNT R-001-6150

AMOUNT \$ 75

RECEIVED FROM: Robert Turner, Esquire
Appeal/Case No. 95-366-A (1)
Carroll Coleman, Esq. - 2nd

FOR: _____

MICROFILMED

VALIDATION OR SIGNATURE OF CASHIER

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

In view of Petition against
Variance signed by many
neighbors, set in for Hearing

JES

5/17/95

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

ZONING HEARING ADVERTISING AND POSTING REQUIREMENTS & PROCEDURES

Baltimore County Zoning Regulations require that notice be given to the general public/neighbor property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property and placement of a notice in at least one newspaper of general circulation in the County.

This office will ensure that the legal requirements for posting and advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements.

PAYMENT WILL BE MADE AS FOLLOWS:

- 1) Posting fees will be assessed and paid to this office at the time of filing.
- 2) Billing for legal advertising, due upon receipt, will come from and should be remitted directly to the newspaper.

NON-PAYMENT OF ADVERTISING FEES WILL STAY ISSUANCE OF ZONING ORDER.

ARNOLD JABLON, DIRECTOR

For newspaper advertising:

Item No.: 402 362

Petitioner: _____

Location: _____

PLEASE FORWARD ADVERTISING BILL TO:

NAME: Carroll Coleman

ADDRESS: 1731 Drexel Rd.

Baltimore, MD. 21222

PHONE NUMBER: 477-0174

AJ:ggs

MICROFILMED

(Revised 04/09/93)



TO: PUTUXENT PUBLISHING COMPANY
June 1, 1995 Issue - Jeffersonian

Please forward billing to:

Carroll and Rosalie Coleman
1731 Drexel Road
Baltimore, MD 21222
485-2886

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in
Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204
or
Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 95-366-A (Item 362)

1731 Drexel Road

S/S Drexel Road, 310' +/- E of c/l Kirkland Road

12th Election District - 7th Councilmanic

Legal Owner(s): Carroll Coleman and Rosalie Coleman

HEARING: TUESDAY, JUNE 20., 1995 at 9:00 a.m. in Room 118, Old Courthouse.

Variance to permit an existing garage of 21 feet high for storage use in lieu of the required 15 feet.

LAWRENCE E. SCHMIDT

ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, PLEASE CALL 887-3391.

MICROFILMED

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

May 24, 1995

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in
Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204
or
Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 95-366-A (Item 362)

1731 Drexel Road

S/S Drexel Road, 310' +/- E of c/1 Kirkland Road

12th Election District - 7th Councilmanic

Legal Owner(s): Carroll Coleman and Rosalie Coleman

HEARING: TUESDAY, JUNE 20., 1995 at 9:00 a.m. in Room 118, Old Courthouse.

Variance to permit an existing garage of 21 feet high for storage use in lieu of the required 15 feet.

A handwritten signature in cursive script, appearing to read "Arnold Jablon".

Arnold Jablon
Director

cc: Carroll and Rosalie Coleman
Thomas S. Worthman
David M. Warfel

NOTES: (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE.
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.

MICROFILMED



Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

April 28, 1995

NOTICE OF CASE NUMBER ASSIGNMENT

Re: CASE NUMBER: 95-366-A (Item 362)
1731 Drexel Road
S/S Drexel Road, 310'+/- E of c/l Kirkland Road
12th Election District - 7th Councilmanic
Legal Owner(s): Carroll Coleman and Rosalie Coleman

Please be advised that your Petition for Administrative Zoning Variance has been assigned the above case number. Contact made with this office regarding the status of this case should reference the case number and be directed to 887-3391. This notice also serves as a refresher regarding the administrative process.

- 1) Your property will be posted on or before April 30, 1995. The closing date (May 15, 1995) is the deadline for a neighbor to file a formal request for a public hearing. After the closing date, the file will be reviewed by the Zoning or Deputy Zoning Commissioner. They may (a) grant the requested relief, (b) deny the requested relief, or (c) demand that the matter be set in for a public hearing. You will receive written notification as to whether or not your petition has been granted, denied, or will go to public hearing.
- 2) In cases requiring public hearing (whether due to a neighbor's formal request or by Order of the Commissioner), the property will be reposted and notice of the hearing will appear in a Baltimore County newspaper. Charges related to the reposting and newspaper advertising are payable by the petitioner(s).
- 3) Please be advised that you must return the sign and post to this office. They may be returned after the closing date. Failure to return the sign and post will result in a \$60.00 charge.

PLEASE UNDERSTAND THAT ON THE DATE AFTER THE POSTING PERIOD, THE PROCESS IS NOT COMPLETE. THE FILE MUST GO THROUGH FINAL REVIEW. ORDERS ARE NOT AVAILABLE FOR DISTRIBUTION VIA PICK-UP. WHEN READY, THE ORDER WILL BE FORWARDED TO YOU VIA FIRST CLASS MAIL.

A handwritten signature in cursive script, appearing to read "Arnold Jablon".

Arnold Jablon
Director

cc: Carroll and Rosalie Coleman

MICROFILMED





County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

Hearing Room - Room 48
Old Courthouse, 400 Washington Avenue

December 12, 1995

NOTICE OF ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

CASE NO. 95-366-A

CARROLL COLEMAN, ET UX
310' E of the c/l of Kirkland Road
(1731 Drexel Road)
12th Election District
7th Councilmanic District

VAR -To permit existing garage height of 21'
in lieu of maximum permitted 15'.

7/10/95 -D.Z.C.'s Order in which Petition for
Variance is DENIED.

ASSIGNED FOR: WEDNESDAY, FEBRUARY 7, 1996 at 10:00 a.m.

cc: Robert C. Turner, Esquire Counsel for Petitioners /Appellants
Mr. & Mrs. Carroll Coleman Petitioners /Appellants

Mr. David M. Warfel
Mr. Steven Wall
Chesapeake Bay Critical Area Commission

People's Counsel for Baltimore County
Pat Keller /Planning Director
Timothy M. Kotroco
W. Carl Richards, Jr. /PDM
Docket Clerk /PDM
Arnold Jablon, Director /PDM
Larry Pilson /DEPRM
Virginia W. Barnhart, County Attorney

Kathleen C. Bianco
Administrative Assistant



MICROFILMED

Case No. 95-366-A

CARROLL COLEMAN, ET UX -Petitioners

S/s Drexel Road, 310' E of the c/l
of Kirkland Road (1731 Drexel Road)

12th Election District

Appealed: 7/25/95

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

May 11, 1995

Mr. and Mrs. Carroll Coleman
1731 Drexel Road
Baltimore, Maryland 21222

RE: Item No.: 362
Case No.: 95-366-A
Petitioner: C. Coleman, et ux

Dear Mr. and Mrs. Coleman:

The Zoning Advisory Committee (ZAC), which consists of representatives from Baltimore County approving agencies, has reviewed the plans submitted with the above referenced petition. Said petition was accepted for processing by, the Office of Zoning Administration and Development Management (ZADM), Development Control Section on April 17, 1995.

Any comments submitted thus far from the members of ZAC that offer or request information on your petition are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties; i.e., zoning commissioner, attorney, petitioner, etc. are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. Only those comments that are informative will be forwarded to you; those that are not informative will be placed in the permanent case file.

If you need further information or have any questions regarding these comments, please do not hesitate to contact the commenting agency or Joyce Watson in the zoning office (887-3391).

Sincerely,

A handwritten signature in dark ink, appearing to read "W. Carl Richards, Jr.", is written over the typed name.

W. Carl Richards, Jr.
Zoning Supervisor

WCR/jw
Attachment(s)

MICROFILMED



Baltimore County Government
Fire Department



700 East Joppa Road Suite 901
Towson, MD 21286-5500

(410) 887-4500

DATE: 05/05/95

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204
Natl. STOP-1105

RE: Property Owner: SEE BELOW

LOCATION: DISTRIBUTION MEETING OF MAY 1, 1995.

Item No.: SEE BELOW

Zoning Agenda:

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

8. The Fire Marshal's Office has no comments at this time,
IN REFERENCE TO THE FOLLOWING ITEM NUMBERS: 362, 363, 364, 365, 366, 367,
369, 370, 371, 372, 373, 374, 375, 376 and 377.

RECEIVED
MAY 8 1995

ZADM

REVIEWER: LT. ROBERT P. SOUERWALD
Fire Marshal Office, PHONE 887-4881, NS-1102F

cc: File

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Maryland Department of Transportation
State Highway Administration

O. James Lighthizer
Secretary
Hal Kassoff
Administrator

5-2-95

Ms. Joyce Watson
Zoning Administration and
Development Management
County Office Building
Room 109
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Baltimore County
Item No.: 362 (RT)

Dear Ms. Watson:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not effected by any State Highway Administration project.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,

Bob Small

for Ronald Burns, Chief
Engineering Access Permits
Division

BS/

RECORDED

BALTIMORE COUNTY, MARYLAND
I N T E R O F F I C E C O R R E S P O N D E N C E

TO: Arnold Jablon, Director DATE: May 8, 1995
Zoning Administration and Development Management

FROM: Robert W. Bowling, P.E., Chief
Developers Engineering Section

RE: Zoning Advisory Committee Meeting
for May 8, 1995
Items 362, 363, 364, 366, 367, 369, 372, 373, 374 and 375 and Case No. 95-308-X

The Developers Engineering Section has reviewed the subject zoning item and we have no comments.

RWB:sw

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration &
Development Management

FROM: Pat Keller, Director
Office of Planning and Zoning

DATE: May 4, 1995

SUBJECT: Variance Requests

INFORMATION:

Item Numbers: 362, 363, 364, 367, 372, 374, 380 and 383.

SUMMARY OF RECOMMENDATIONS:

While staff does not oppose the requested Variances, it is clear that the petitioners will need to satisfy the burden imposed upon them to prove practical difficulty and/or unreasonable hardship to justify the granting of the subject Variances.

Prepared by:

Jeffrey W. Long

Division Chief:

Gary L. Kerns

PK/JL

MICROFILMED

BALTIMORE COUNTY, M. YLAND
OFFICE OF THE BUILDING ENGINEER

JOB LOCATION

1731 Drexel Rd

DISTRICT

15 PCT.

PERMIT NO.

none

BLDG. INSP. 887-3953

PLUMB. INSP. 887-3620

ELEC. INSP. 887-3960

SED. CON. INSP. 887-3226

BLDGS. ENG. 887-3373

STOP WORK NOTICE

I HAVE THIS DAY INSPECTED THIS STRUCTURE AND THESE PREMISES AND HAVE FOUND THE FOLLOWING VIOLATIONS OF THE LAWS OF BALTIMORE COUNTY CODE

CODE

1300.02

SEC.

100.1

Permit Required For Garage

AND GARAGE ADDITION

THESE CONDITIONS MUST BE CORRECTED NOT LATER THAN DATE: 1-25-95

FAILURE TO COMPLY CONSTITUTES A VIOLATION OF COUNTY LAW.

DATE 1-25-95 SIGNED INSPECTOR AR Jones

ALL CORRECTIONS COMPLETE AND APPROVED

DATE _____ SIGNED INSPECTOR _____

DO NOT REMOVE THIS TAG

RECEIVED

ITEM # 362

INSPECTION BY

BALTIMORE COUNTY

Department of Permits & Licenses

Date _____ Inspector _____

DISAPPROVED

☐ Incomplete Installation

☒ Violation

☒ See Attached Correction Notice

Permit Required

For Garage

WHEN READY FOR REINSPECTION CALL:

☒ BUILDING 887-3953

☐ PLUMBING 887-3620

☐ ELECTRICAL 887-3960

22 Feb
2 PM

Baltimore County Government
Department of Permits and Licenses

Soyce



111 West Chesapeake Avenue
Towson, MD 21204

January 27, 1995

(410) 887-3610

Carroll & Rosalie Coleman 388-0559
1731 Drexel Road
Baltimore, MD 21222

Re: B-95-020-15
1731 Drexel Road
Permit required for garage.

Dear Mr. & Mrs. Coleman:

Our records indicate that you were informed of a building code violation at the referenced location. The building inspector assigned to your area has reported that the condition has not been corrected and that the violation is continuing.

A hearing has been scheduled on Thurs., Feb. 16, 1995 at 11:00 a.m. in Room 100 of the County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland to discuss this matter.

The purpose of this hearing is a final attempt to resolve this problem and avoid the necessity of filing criminal charges against you in the District Court of Maryland for the violation of the Baltimore County Building Code.

Your presence at the hearing is required. You may be represented by an attorney if you wish, and present any information you feel is pertinent.

If the matter referred to above has been corrected, or there is any other reason you feel the hearing should not be held, please call the inspector at 887-3953 between 7:30 and 8:15 a.m. or you may contact him in writing at the above address.

Very truly yours,

Errol Ecker

Errol Ecker
Building Supervisor

Feb 22 2 PM

cc: date file
b file
inspector - Jones

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362
ITEM # ~~400~~



Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

May 19, 1995

Carroll and Rosalie Coleman
1731 Drexel Road
Baltimore, Maryland 21222

Re: CASE NUMBER: 95-366-A (Item 362)
1731 Drexel Road
S/S Drexel Road, 310'+/- E of c/l Kirkland Road
12th Election District - 7th Councilmanic

Dear Petitioners:

It has been determined by the Zoning Commissioner's Office that this matter should be set in for public hearing. Formal notification of the hearing date will be forwarded to you shortly.

As you recall, it now becomes necessary that we repost the property and run notice of the hearing in a newspaper of general circulation.

The reposting charge in the amount of \$35.00 is now due. Your check in this amount should be made payable to "Baltimore County, Maryland" and immediately mailed to this office.

Billing for legal advertising, due upon receipt, will come from and should be remitted directly to the newspaper.

If you have any questions concerning this letter, you may contact Gwen Stephens at 887-3391.

A handwritten signature in cursive script, appearing to read "Arnold Jablon".

ARNOLD JABLON, DIRECTOR

AJ:ggs



Baltimore County Government
Department of Permits and Licenses



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3610

August 1, 1995

Mr. David M. Warfel
1724 Drexel Road
Baltimore, Maryland 21222

Mr. Steven Wall
1723 Drexel Road
Baltimore, Maryland 21222

RE: Petition for Zoning Variance
1731 Drexel Road
310' E. of the c/l of Kirkland Road
12th Election District
7th Councilmanic District
Carroll Coleman, et ux - Petitioner
Case No. 95-366-A (Item 362)

Dear Mr. Warfel and Mr. Wall:

Please be advised that an appeal of the above-referenced case was filed in this office on July 25, 1995 by Robert C. Turner, Esquire, on behalf of Carroll and Rosalie Coleman. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals, "Board".

If you have any questions concerning this matter, please do not hesitate to contact the Board at 887-3180.

Sincerely,

ARNOLD JABLON
Director

AJ:bb

cc: Chesapeake Bay Critical Areas Commission
People's Counsel

MICROFILMED



APPEAL

Petition for Administrative Variance
1731 Drexel Road
310' E of the c/l of Kirkland Road
12th Election District - 7th Councilmanic District
Carroll Coleman, et ux - Petitioners
Case No. 95-366-A (Item 362)

Petition for Variance

Description of Property

Certificate of Posting

Certificate of Publication

Zoning Plans Advisory Committee Comments

Petitioner(s) and Protestant(s) Sign-In Sheets

Petitioner's Exhibits: 1 - Plat to accompany Petition
for zoning variance
2 - Five Photographs

Protestant's Exhibits: 1 - Fifteen Photographs

Petition Against Zoning Exception by Residents of Drexel Road

Letter to Carroll and Rosalie Coleman from Arnold Jablon
dated May 19, 1995

Letter to Carroll and Rosalie Coleman from Errol Ecker
dated January 27, 1995

Stop Work Notice dated January 25, 1995

Deputy Zoning Commissioner's Order dated July 10, 1995 (Denied)

Notice of Appeal received on July 25, 1995 from Robert C. Turner,
Esquire on behalf of Carroll and Rosalie Coleman

cc: Robert C. Turner, Esquire, Polovoy & McCoy, 216 Schilling Circle,
Hunt Valley, Maryland 21030
Mr. David M. Warfel, 1724 Drexel Road, Baltimore, Maryland 21222
Mr. Steven Wall, 1723 Drexel Road, Baltimore, Maryland 21222
Chesapeake Bay Critical Areas Commission, 45 Calvert Street,
2nd Floor, Annapolis, Maryland 21401
People's Counsel of Baltimore County, M.S. 2010

Request Notification: Pat Keller, Director, Planning & Zoning
Timothy M. Kotroco, Deputy Zoning Commissioner
Larry Pilson, DEPRM
Arnold Jablon, Director of PDM

MICROFILMED

12/12/95 -Notice of Assignment for hearing scheduled for Wednesday,
February 7, 1995 at 10:00 a.m. sent to following:

Robert C. Turner, Esquire
Mr. & Mrs. Carroll Coleman
Mr. David M. Warfel
Mr. Steven Wall
Chesapeake Bay Critical Area Commission
People's Counsel for Baltimore County
Pat Keller /Planning Director
Timothy M. Kotroco
W. Carl Richards, Jr. /PDM
Docket Clerk /PDM
Arnold Jablon, Director /PDM
Larry Pilson /DEPRM
Virginia W. Barnhart, County Attorney

RECEIVED

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

MINUTES OF DELIBERATION

IN THE MATTER OF: Carroll Coleman, et ux -Petitioners
Case No. 95-366-A

DATE : February 7, 1996 /at conclusion of hearing

BOARD /PANEL : Lawrence M. Stahl (LMS)
S. Diane Levero (SDL)
Margaret Worrall (MW)

SECRETARY : Kathleen C. Bianco
Administrative Assistant

Those present at this deliberation included Robert C. Turner, Esquire, on behalf of Appellants /Petitioners. Also present were Protestants in this matter. The Office of People's Counsel did not participate in these proceedings.

LMS: We are now in the deliberation stage of this case, and as is my normal practice as both the chairman of this particular Board and as an attorney, I always wish the record to reflect that in my feeling the open deliberation aspect of the law is one that I have never fully ascribed to. It's a creature of statute; a rule of the Circuit Court. I have made no secret of the fact that I think that in most cases it works to the detriment of the good; the carrying out of our duties, and that if our brethren and sisters in the Circuit Court, the Court of Special Appeals and the Court of Appeals had to labor under the same conditions, they might have more than a little difficulty with it. Having made those comments, and the law and case law requires that we do so, I will then continue.

We have here a simple issue - whether a variance in this property shall be granted. The county code is very clear, and I am looking to 307.1 of the zoning regulations that says in part that a variance such as the one requested here will be granted "...only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance with the zoning regulations for Baltimore County would result in practical difficulty or unreasonable hardship."

It is essentially a two-prong test. In order to move to practical difficulty and unreasonable hardship part, you must first show the uniqueness of that particular land or structure which is the subject of the request. There is a case on point on variances which is the leading case, and the one we follow on the Board, Cromwell v. Ward, and it is a reported case in the Court of Special Appeals. I don't have the Maryland cite; unfortunately we get it early enough, but it's the 1994 session #617. It's the Maryland law as it now exists on variances; the unique aspect of it, and I'm referring to page 21 of that opinion:

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"In the zoning context the 'unique' aspect of a variance requirement does not refer to the extent of improvements upon the property, or upon neighboring property. 'Uniqueness' of a property for zoning purposes requires that the subject property have an inherent characteristic not shared by other properties in the area, i.e., its shape, topography, subsurface condition, environmental factors, historical significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or other similar restrictions...."

That is in fact the law as we understand it. There has been some testimony as to the water table difficulties. And that concerned me. As the members of the Board certainly remember, I raised some of those questions myself. There is in fact a general uniqueness to the area in that there are no basements. Those who do, have problems with them. That is a general uniqueness or condition to that area of the County. The language of the statute and of the case law is clear in my mind that it is not the entire area or section of the County or all those who are abutting higher water tables, but whether or not the particular Coleman property has inherent uniqueness to other properties in the area which would require that we go to the second step.

Again, referring to the Cromwell decision, we find that they are very, very clear that the Board is very restricted to construe the requirements of that statute and of the variance requirements. To not do so is in fact an arbitrary and illegal action by this Board. And in order to do what we are supposed to do we are guided by the premise in Cromwell - that variances are rare, that they should be rare; should not be done in anything but most unique. If it were not for that Order and if it were not for the very clear language, I certainly, and I'm sure other members have empathy for the situation, everybody needs more storage; would like to utilize property. Question raised as to whether or not other things could have been done on that property. Used same footprint on old garage, but no testimony if the property could have been wider, deeper, etc. It's the same property and same problems as entire area suffers from. It's not unique. And the law is very clear; allows us no leeway; allows little or no wiggle room to say that unless it is a particular uniqueness to Coleman house as opposed to others that would make it necessary to request or grant a variance, cannot get to the second issue.

Whether or not the Zoning Commissioner considered it is not relevant. Other uses to property not relevant. File is not relevant. The basic inescapable premise is that if you don't make number 1, you don't go to number 2. I am convinced by

the testimony - that there certainly has been no testimony as to particular uniqueness of the Coleman lot or property such as to make it different from other homes in the area; unique in itself to go through the narrow doorway.

We are required and constrained to follow the law. Cromwell v. Ward is absolutely clear. It is in fact a reversal of an action of the Board granting a variance. And the restrictions of the Court are clear. For those reasons, I would deny the variance.

SDL: I would agree with Larry. Appellant did not address the first prong of 307.1; what was unique about his land or structure that would create hardship and justify the granting of a variance. There was no testimony regarding uniqueness. In fact, there was testimony that almost all the homes did not have basements. Uniqueness was not proved. Therefore the variance can be denied at that point. I would also, however, fail to find adequate evidence of hardship.

MW: I would agree with my colleagues that the variance should be denied for precisely the same reasons. I will only add that the Ward case in point is about a height variance; from that I would add one more thing:


"It is not the purpose of variance procedures to effect a legalization of a property owner's intentional or unintentional violations of zoning requirements. When administrative entities such as zoning authorities take it upon themselves to ignore the provisions of the statutes enacted by the legislative branch of government, they substitute their policies for those of the policy-makers. That is improper."

I think that ignoring the zoning regulations is not a reason for granting. I agree.

LMS: The variance has been denied unanimously. We will effect a written Opinion to that fact. Written appeal will be from that written Order to the Circuit Court.

* * * * *

Respectfully submitted,


Kathleen C. Bianco
Administrative Assistant

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BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director **DATE:** February 10, 1997
Permits & Development Management

FROM: Charlotte E. Radcliffe *CR*
County Board of Appeals

SUBJECT: Closed Files: Case Nos.
95-366-A /Carroll Coleman, et ux (12th; 7th)
96-24-A /Thomas Kreiner, Jr., et ux (15th; 5th)
96-31-SPH /Stephen Seymour (3rd; 2nd)
96-40-A /Joseph C. Nowakowski (15th; 7th)
96-63-A /Joseph E. Neet, et ux (13th; 1st)
96-118-SPHXA /Rocky Gorge at Grey Rock, L.P. and
Rocky Gorge Communities, Inc., G.P. (3rd; 2nd)
96-120-SPHA /Richmond American Homes and
Ruby Holzapfel, et al (2nd; 2nd)
CBA-95-178 /Steinberg Property (DRC #07315M)
CBA-96-113 /Samuel Owings House (Permit #B240689)

As no further appeals have been taken regarding the subject cases, we are hereby closing the files and returning same to you herewith.

Attachments (Case File Nos. 95-366-A; 96-24-A; 96-31-SPH; 96-40-A;
96-63-A; 96-118-SPHXA; 96-120-SPHA; CBA-95-178; CBA-96-113)

MICROFILMED

NORMAN POLOVOY
ROBERT C. TURNER

JOHN CARROLL BRODERICK*

OF COUNSEL

DENNIS C. McCOY

ALBERT B. POLOVOY

* also admitted in D.C. and Maine

LAW OFFICES
POLOVOY & McCOY, LLC
216 SCHILLING CIRCLE
HUNT VALLEY, MARYLAND 21031
(410) 527-1700
FAX (410) 527-1777

ANNAPOLIS OFFICE:
220 PRINCE GEORGE STREET
ANNAPOLIS, MARYLAND 21401
(410) 269-5980
FAX (410) 269-5991

July 25, 1995

Baltimore County Zoning Commission
Office of Planning and Zoning
Room 111
Court House
400 Washington Avenue
Towson, Maryland 21204

Attention: Julie Wincarski


RE: Zoning Appeal - 1731 Drexel Road
Case No.: 95-366-A

Dear Ms. Wincarski:

Please be advised that on behalf of my clients, Carroll and Melinda Coleman we would respectfully appeal the zoning decision in the above-referenced matter. Enclosed you will find a check in the amount of \$75.00 to cover the zoning appeal.

Thank you for your consideration in this matter.

Very truly yours,

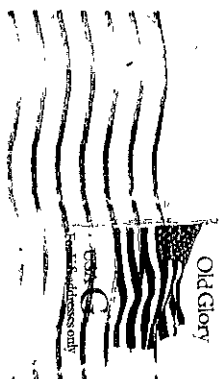

Robert C. Turner

RCT/crs

Enclosure

cc: Mr. and Mrs. Carroll Coleman

RECEIVED
JUL 27 1995
ZADM



Zoning Administration and
Development Management
111 W. Rossopaka Avenue

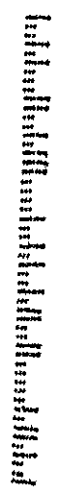
Room 109

Towson, MD 21204

RE CASE 95-366A

MICROFILMED

ATTN: Administration Director



5/10/95
J

MB

PETITION AGAINST ZONING EXCEPTION

Re: Case 95-366A
1731 Drexel Road
Baltimore, MD 21222
(Edgepoint)

We, the undersigned, residents of Drexel Road, in Baltimore County, the state of Maryland wish to express our concerns about the possible granting of an exception to the zoning height limitation of fifteen feet (15') for a garage/storage structure to twenty-two feet (22') referenced in case 95-366A.

Our concern is that it is very unusual for one to need a twenty-two foot (22') high garage for storage for a one family residential unit in a residential district. The petitioner for this exception is in the vehicle mechanic and towing service profession. It is our concern that if the exception is approved, the petitioner will be using this building for a business (most likely a vehicle repair and maintenance facility). In fact, it has be noticed that there has be excessive vehicle activity at the address of the petitioner (1731 Drexel Road) since the construction of the building in question. It is our understanding that there were previous problems with the petitioner attempting to perform his trade activities at the referenced residential area address. It also is noted that the petitioner for this exception is parking his flat bed tow truck on the community street on a curve where the corner of the flat bed sticks out in the roadway causing a hazard to individuals driving by. We beg for your attention to this matter in hopes that the request for exception will be denied. At the least we request that enforceable restrictions be placed on the use of the building limiting use to residential personal vehicle and/or personal property storage only. Our preference however, is that the petition for exception to zoning be denied.

Thomas S. Worthington THOMAS S. WORTHINGTON 1725 DREXEL RD.
Signature Print Name Address

David M. Warfel DAVID M. WARFEL 1724 DREXEL RD.
Signature Print Name Address

Sandra Tucker SANDRA TUCKER 1726 DREXEL RD.
Signature Print Name Address

Diane Tucker DIANE TUCKER 1726 Drexel Rd
Signature Print Name Address

JoAnn Keener JOANN KEENER 1728 DREXEL RD
Signature Print Name Address

MICROFILMED

RECEIVED
MAY 10 1995

ZADM

<u>Larry Keener</u> Signature	<u>LARRY KEENER</u> Print Name	<u>1728 DREXEL Rd.</u> Address
<u>Bonnie Jo Tucker</u> Signature	<u>BONNIE JO TUCKER</u> Print Name	<u>1726 DREXEL Rd.</u> Address

<u>Lester R Tucker</u> Signature	<u>LESTER R TUCKER</u> Print Name	<u>1726 Drexel Rd</u> Address
-------------------------------------	--------------------------------------	----------------------------------

<u>Florita Lipinski</u> Signature	<u>FLORITA LIPINSKI</u> Print Name	<u>1729 DREXEL RD</u> Address
--------------------------------------	---------------------------------------	----------------------------------

<u>April Worchum</u> Signature	<u>April Worchum</u> Print Name	<u>1735 Drexel Rd.</u> Address
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<u>Steven Wall</u> Signature	<u>STEVEN WALL</u> Print Name	<u>1723 DREXEL RD</u> Address
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<u>Greg Sauter</u> Signature	<u>Greg Sauter</u> Print Name	<u>1721 Drexel Rd</u> Address
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<u>Theda Stachowski</u> Signature	<u>Theda Stachowski</u> Print Name	<u>1717 Drexel Rd</u> Address
--------------------------------------	---------------------------------------	----------------------------------

<u>Mary D. Grybos</u> Signature	<u>MARY D. GRYBOS</u> Print Name	<u>1716 DREXEL RD.</u> Address
------------------------------------	-------------------------------------	-----------------------------------

<u>Robert Simpson</u> Signature	<u>Robert Simpson</u> Print Name	<u>1718 Drexel Rd</u> Address
------------------------------------	-------------------------------------	----------------------------------

<u>George Lunn</u> Signature	<u>George Lunn</u> Print Name	<u>1737 Drexel Rd</u> Address
---------------------------------	----------------------------------	----------------------------------

<u>Carol Lunn</u> Signature	<u>CAROL LUNN</u> Print Name	<u>1737 Drexel Rd.</u> Address
--------------------------------	---------------------------------	-----------------------------------

<u>Theodore Baird</u> Signature	<u>THEODORE BAIRD</u> Print Name	<u>1738 DREXEL RD.</u> Address
------------------------------------	-------------------------------------	-----------------------------------

<u>Ann Marie Baird</u> Signature	<u>ANN M BAIRD</u> Print Name	<u>1736 DREXEL RD.</u> Address
-------------------------------------	----------------------------------	-----------------------------------

Rose M. Tallon
Signature

Rose TALLON
Print Name

1743 DREXEL RD.
Address

Signature

Print Name

Address

Signature

Print Name

Address

Signature

Print Name

Address

Signature

Print Name

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Signature

Print Name

Address

PLEASE PRINT CLEARLY

PROTESTANT(S) SIGN-IN SHEET

NAME

ADDRESS

DAVID M. WAKFEL

1724 Drexel Rd. 21222

STEVEN WALL

1723 Drexel Rd 21222

FINISHED BY [unclear]

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME

ADDRESS

CARROLL COLEMAN

1731 DREXEL RD 21222

ROSELIE COLEMAN

1731 DREXEL RD



Printed with Soybean Ink
on Recycled Paper

MICROFILMED

Pet. 5A

February 6, 1996

We, the undersigned, have no objection to the added height caused by adding the second story to the Coleman's garage at their home at 1731 Drexel Road.

NAME:

ADDRESS:

Mr & Mrs. Brownlow Mullins 1733 Drexel Rd 21222
Mr & Mrs. John Iacurino 1735 Drexel Rd 21222
Mr & Mrs Martin Stetlo 1717 Kirkland 21222
✓ Mr & Mrs Eugene Janacek 1736 Drexel Rd.
174 & Mr Larry Turner 1728 DREXEL Rd.
Mrs Gloria Mearns 1748 Drexel Rd 21222
Mrs. Carl D'Antoni 1751 Drexel Rd 21222
Ethel & Carl Hale 1750 Drexel Rd 21222
MR. Mrs Thomas McCabe 1755 DREXEL Rd 21222
Mrs April Beckman 1757 Drexel Rd 21222
Tom Waters 1725 DREXEL Rd. 21222
Mr & Mrs Wilson 1701 Drexel Rd 21222
Mr & Mrs Fred Shiftett 1716 Kirkland Rd 21222
Frank & Lillian 1721 Drexel Rd 21222
Charles & Lita 1730 DREXEL RD

RECEIVED

Pet. 5B

February 6, 1996

We live directly next door to the Coleman's at 1733 Drexel Road and know for a fact that their home garage is not and does not plan to be used for any type of business.

The garage is for storage purpose only.

Mrs. Rita Mullins

MICROFILMED



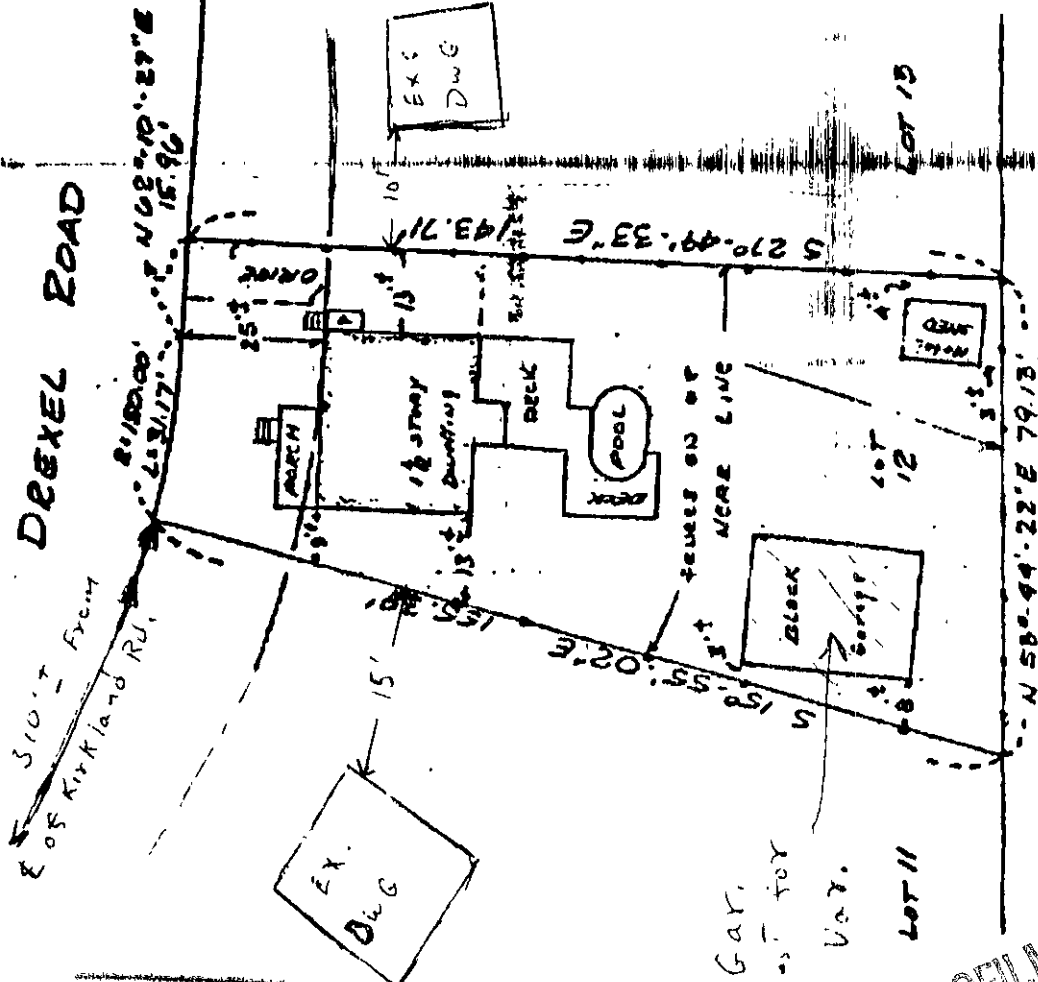
MICROFILMED

see pages 5 & 6 of the CHECKLIST for additional required information

95-36A

plat book # 18, folio # 18, section # _____

OWNER: CARROLL & ROSALIE COLEMAN



1
EXHIBIT
PETITIONER'S

Ex Gar.
Request for
HGT. Var.

MICROFILMED
North
Date 4-17-95
Prepared by

North
4
City
1000

12

LOCATION INFORMATION

Election District: 12
Councilmanic District: 7

1"=200' scale map#:

Zoning: OK 5.5

Lot size: 0.21 acreage
9072 square feet

Chesapeake Bay Critical Area:

SEWER:	<input checked="" type="checkbox"/>	PUBLIC	<input type="checkbox"/>	PRIVATE	<input type="checkbox"/>
WATER:	<input checked="" type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>
		YES		NO	

Prior Zoning Hearings:

Zoning Office USE ONLY!

reviewed by: PER #: C&E#:

22

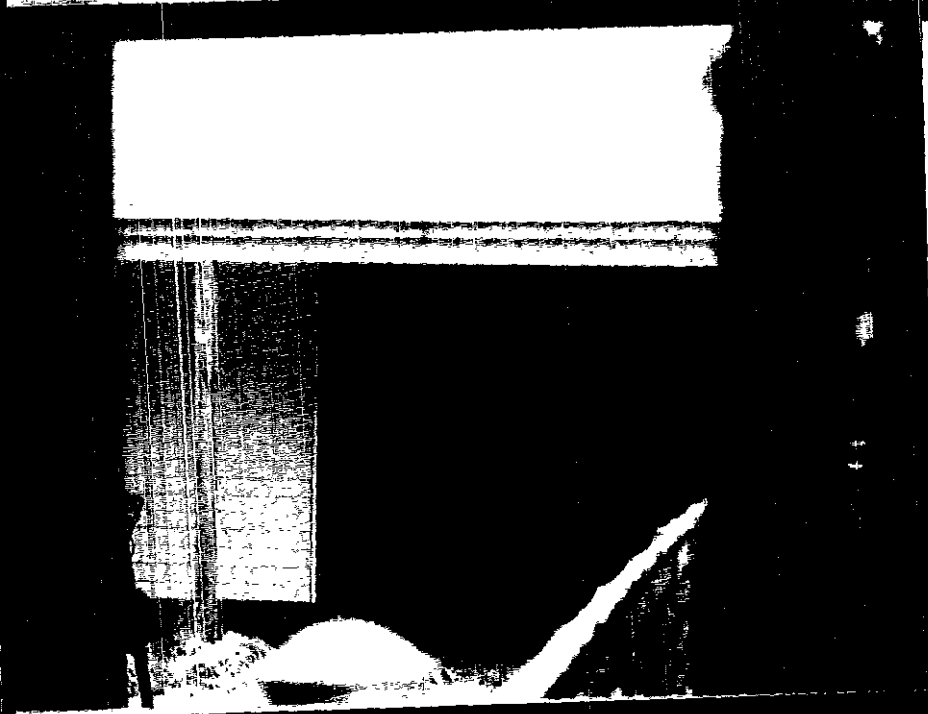
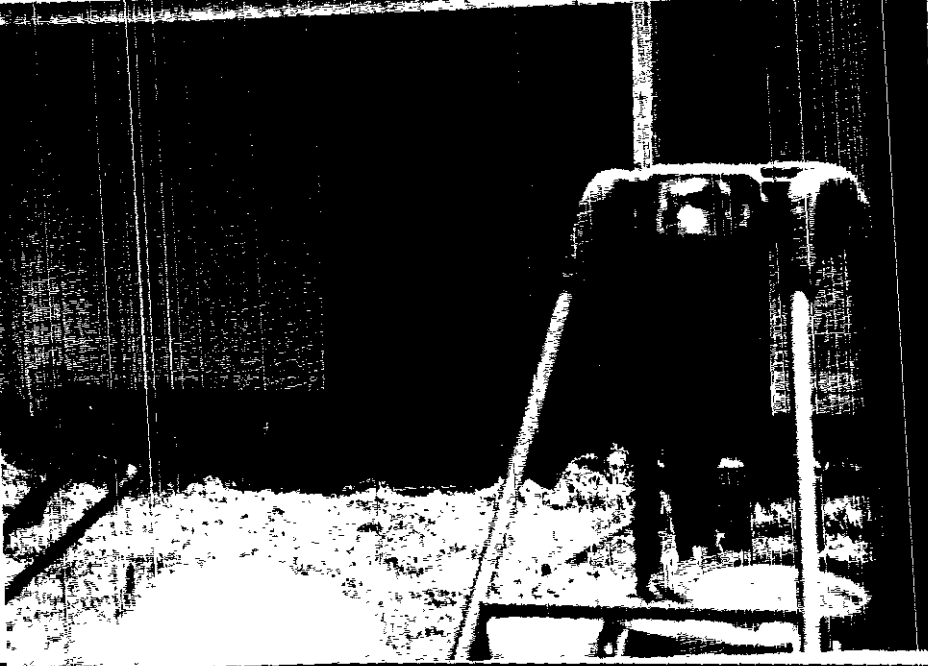
9072

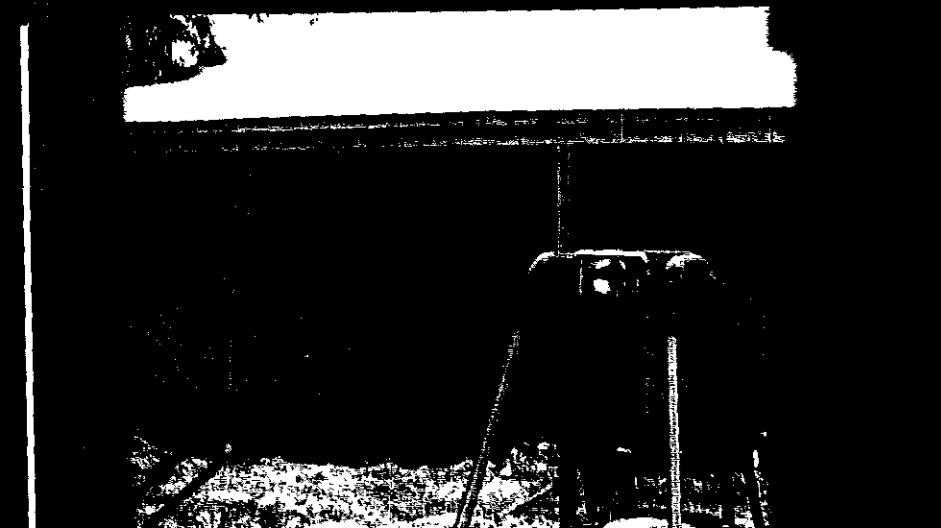
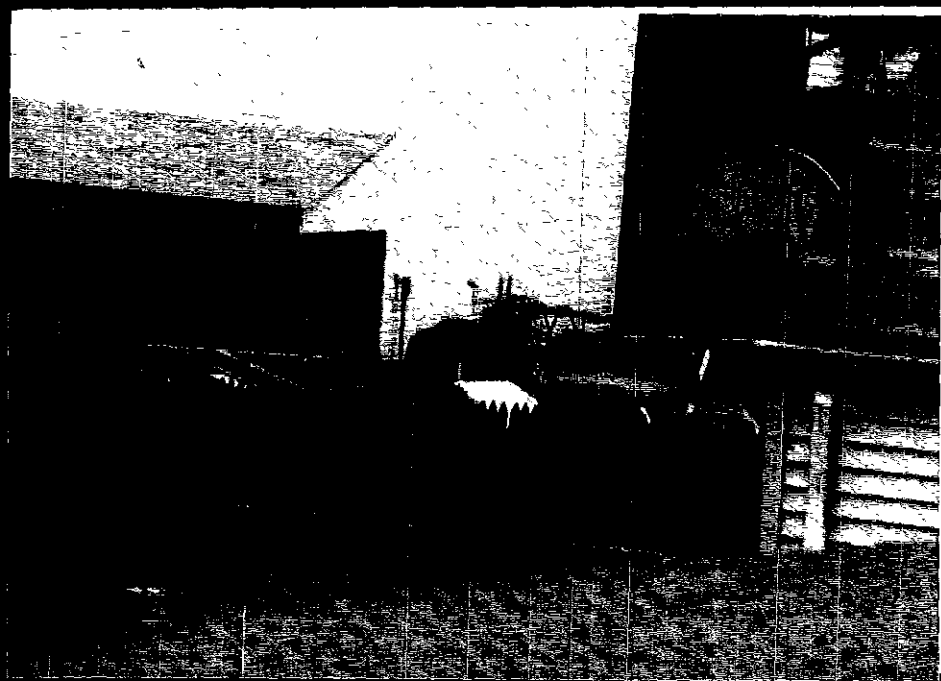


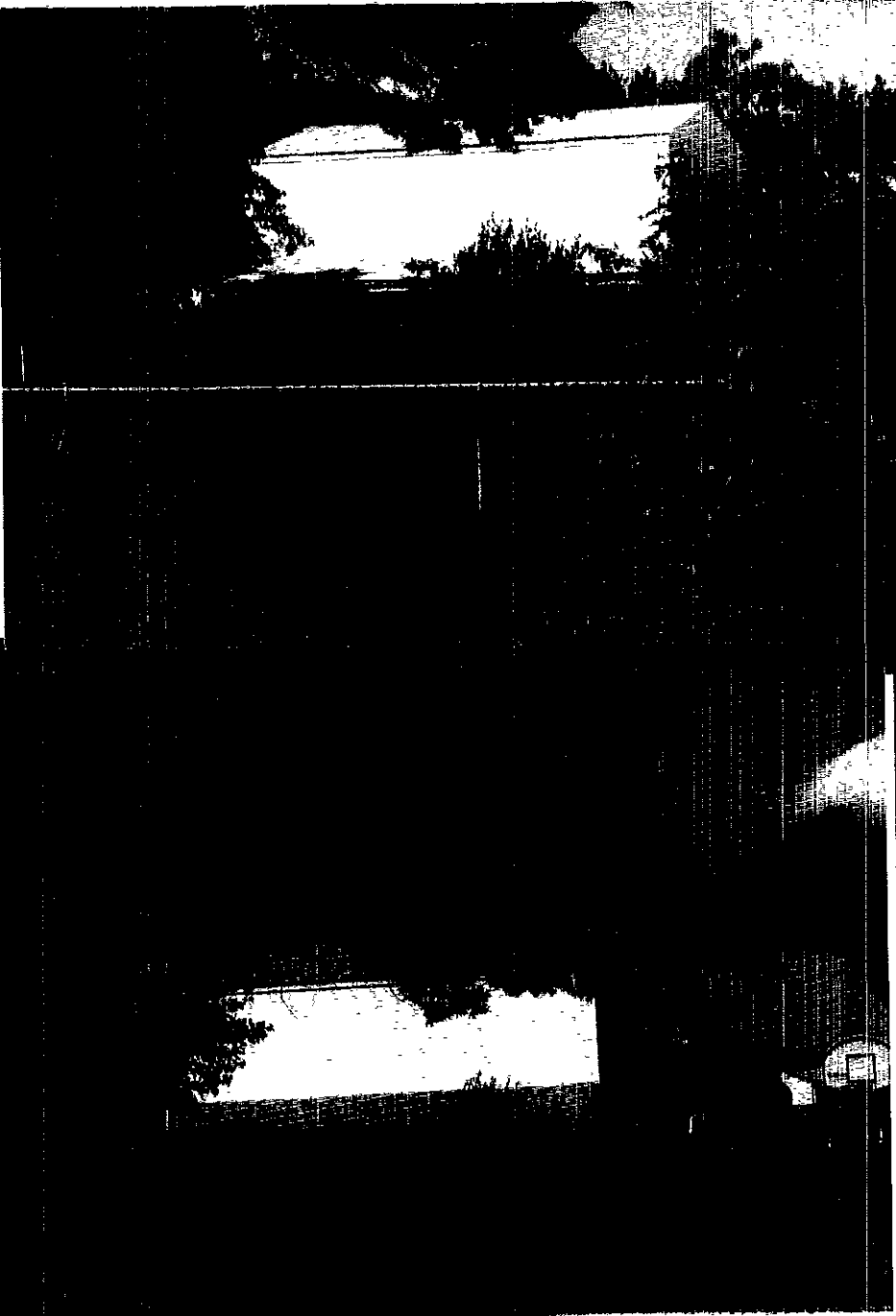
PROTESTANT'S
EXHIBIT NO. 1











PROTESTANTS

1 A-F in
cellophane
new garage



EXIST GARAGE



REAR ELEV.

ITEM # ~~362~~ 362



REAR ELEV.

ITEM # ~~362~~ 362

EXIST GARAGE



REAR ELEV.

EXISTING GARAGE ITEM # ~~362~~ 362



1731 FRONT ELEV.

ITEM # ~~362~~ 362

LITTONER'S
LIBRARY

1731

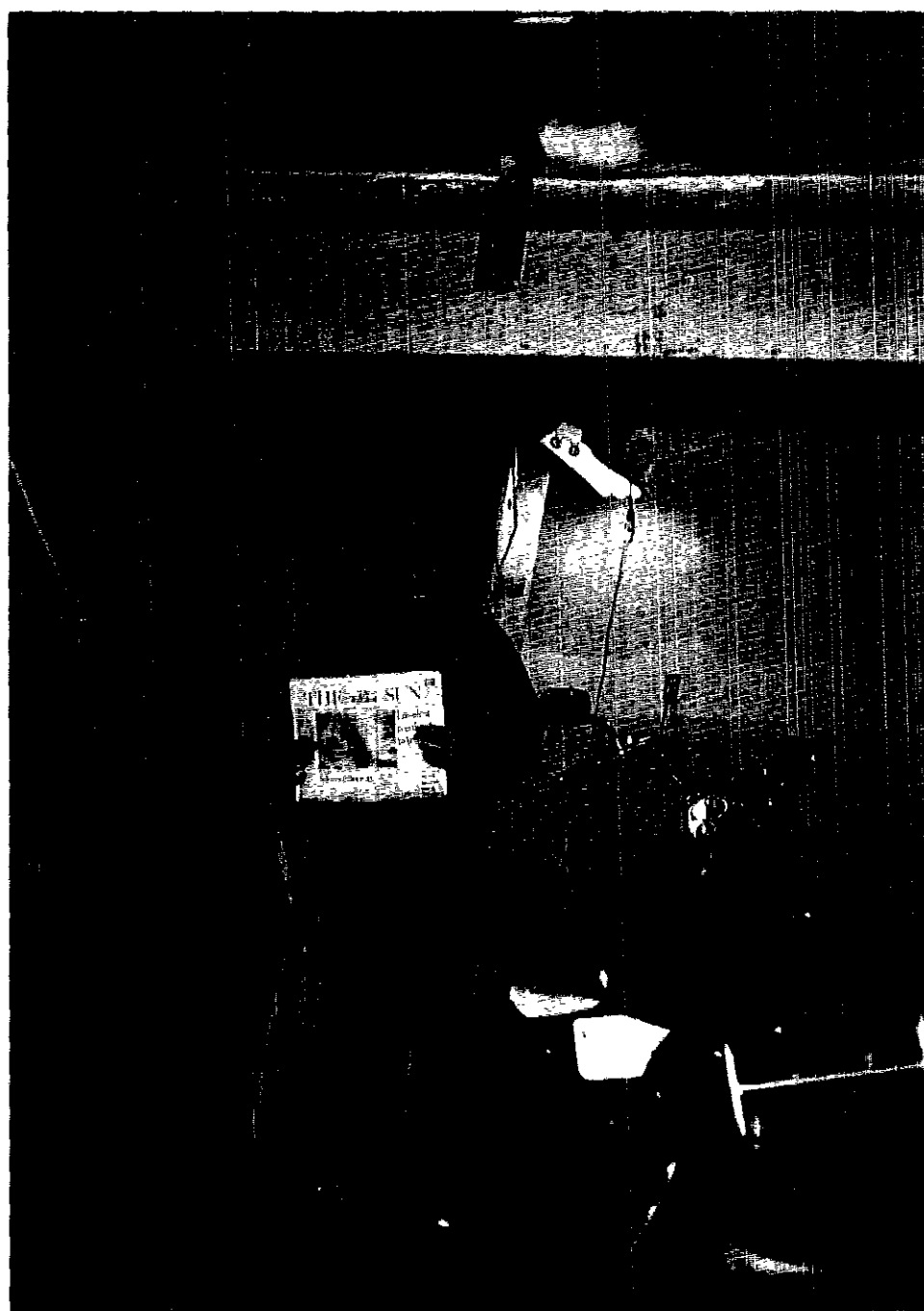
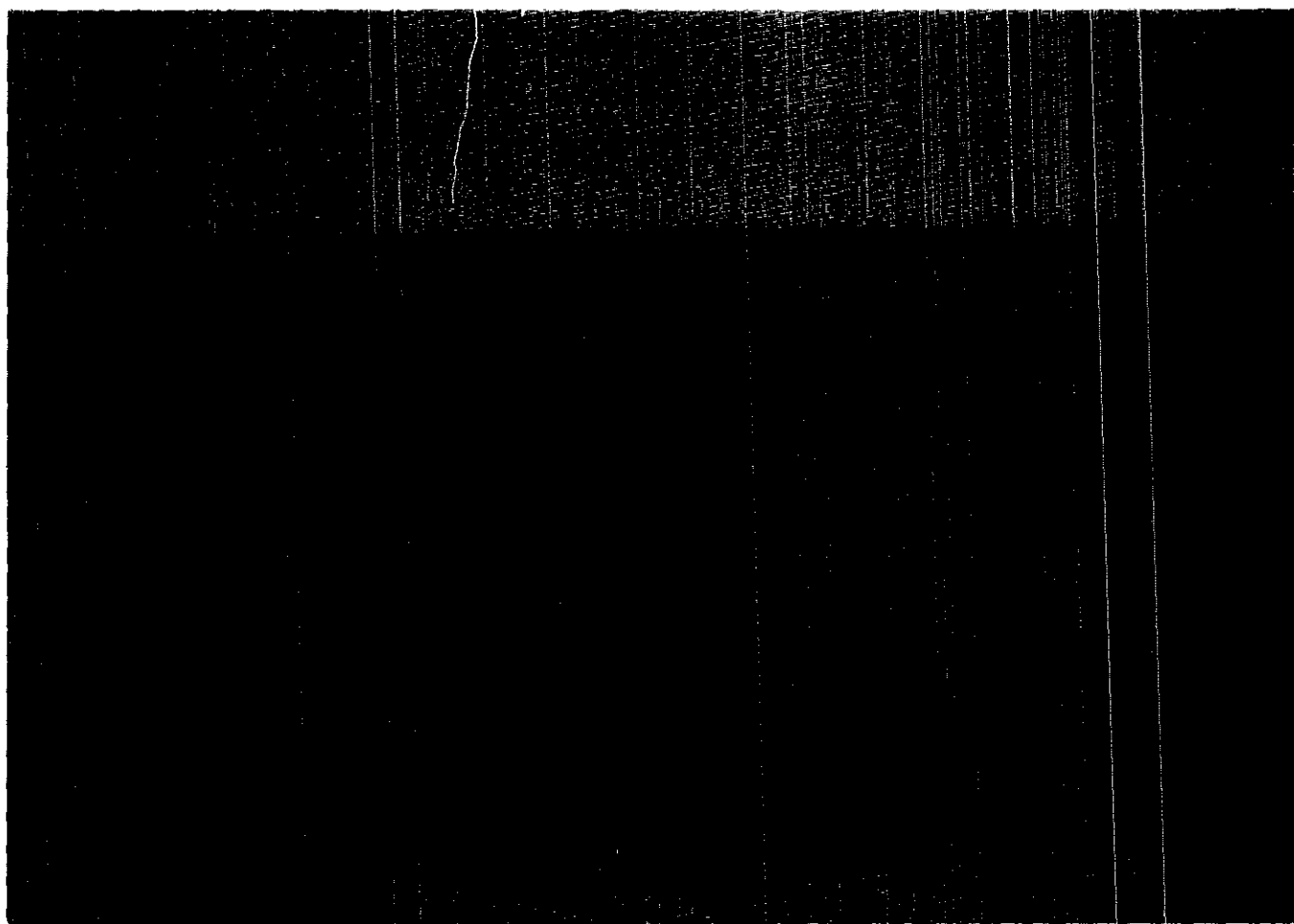


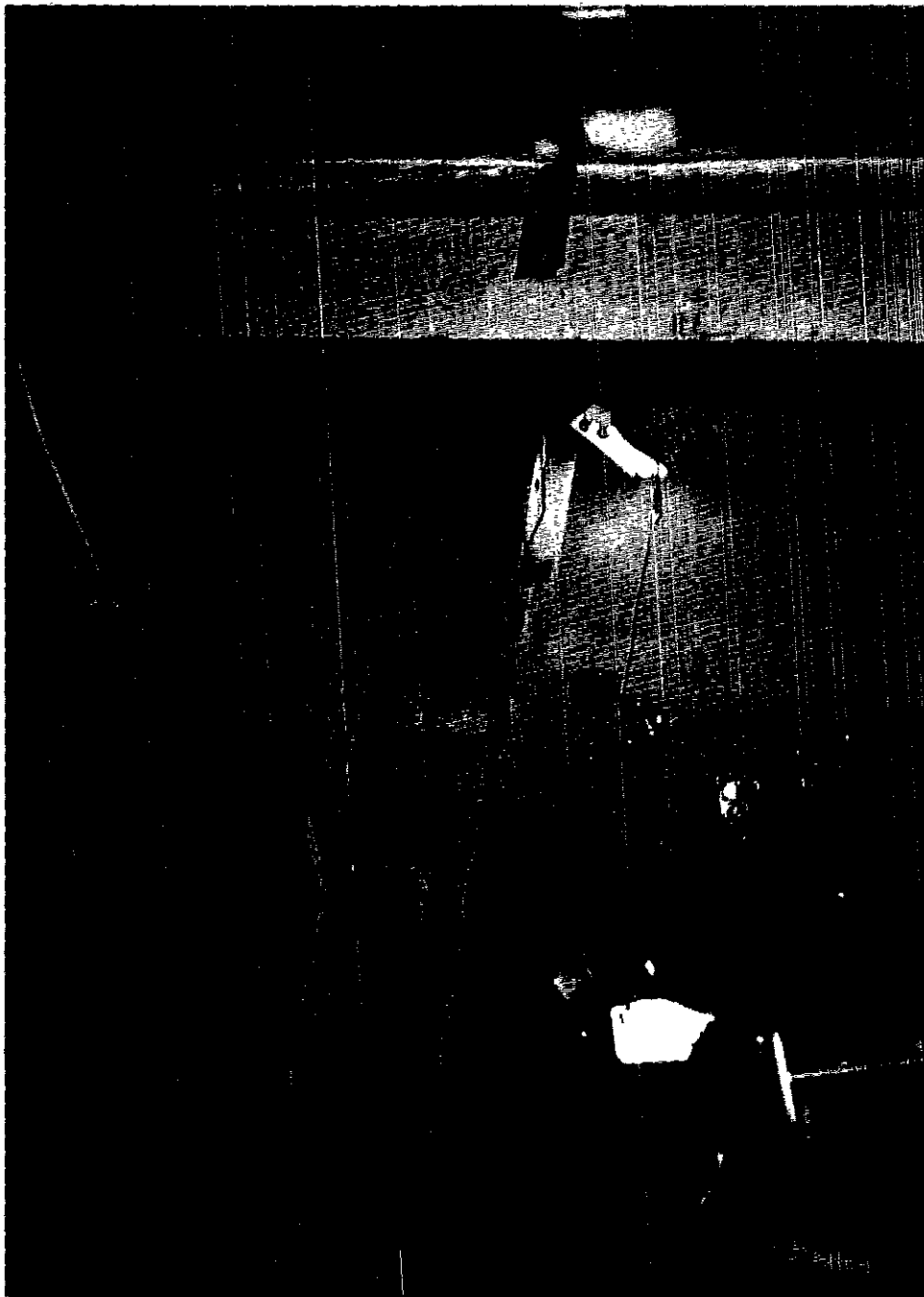
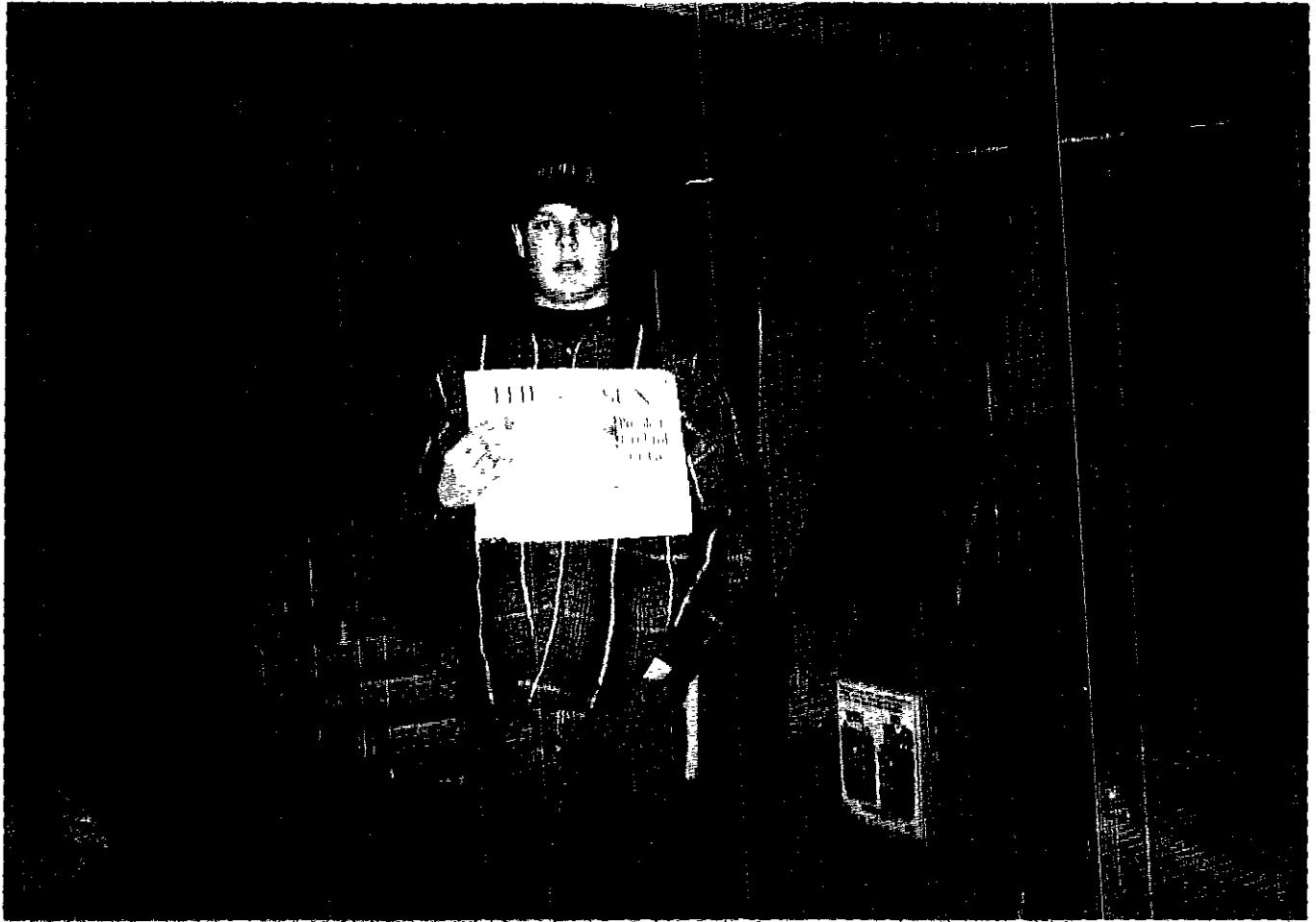
EXIST GARAGE

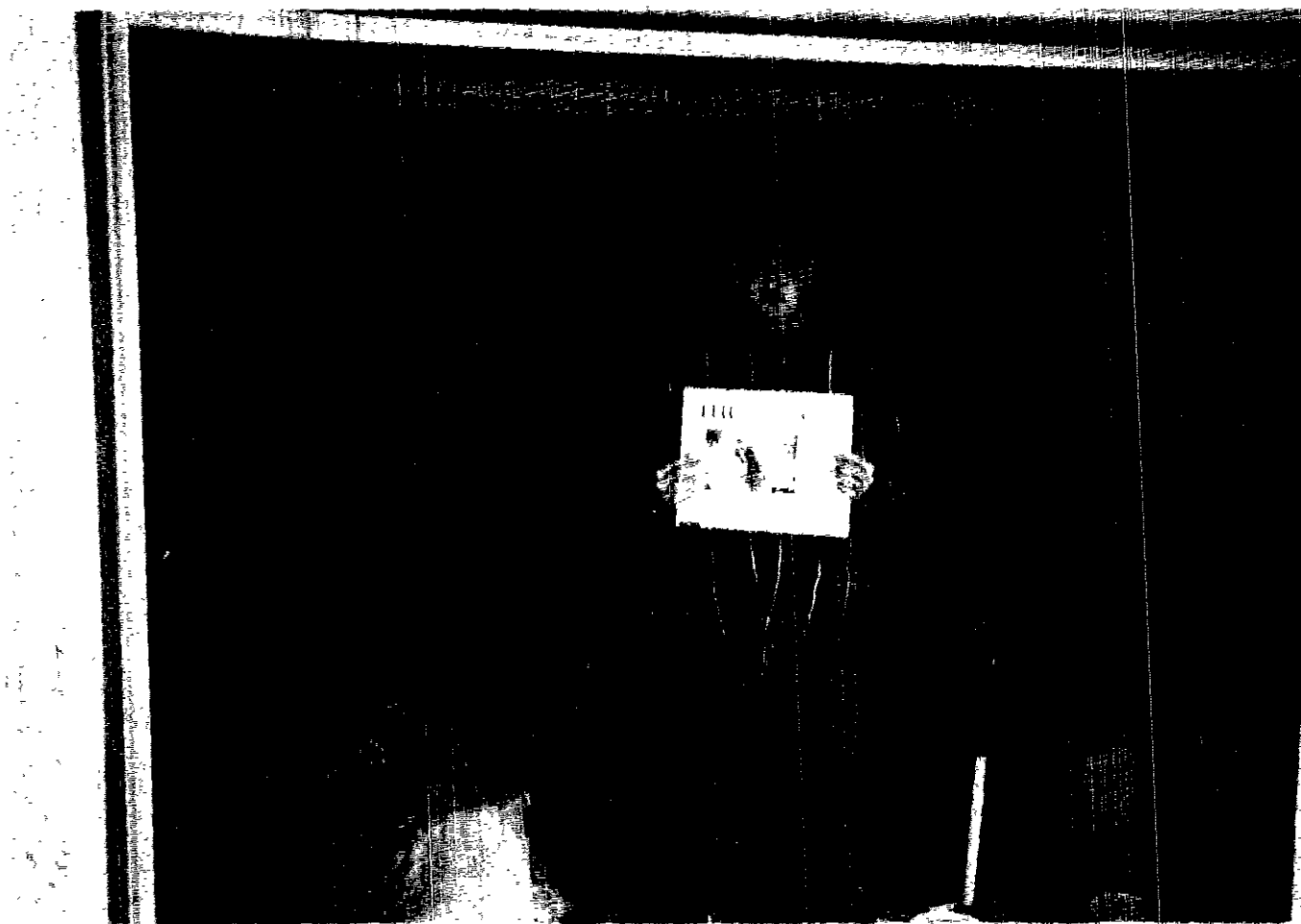
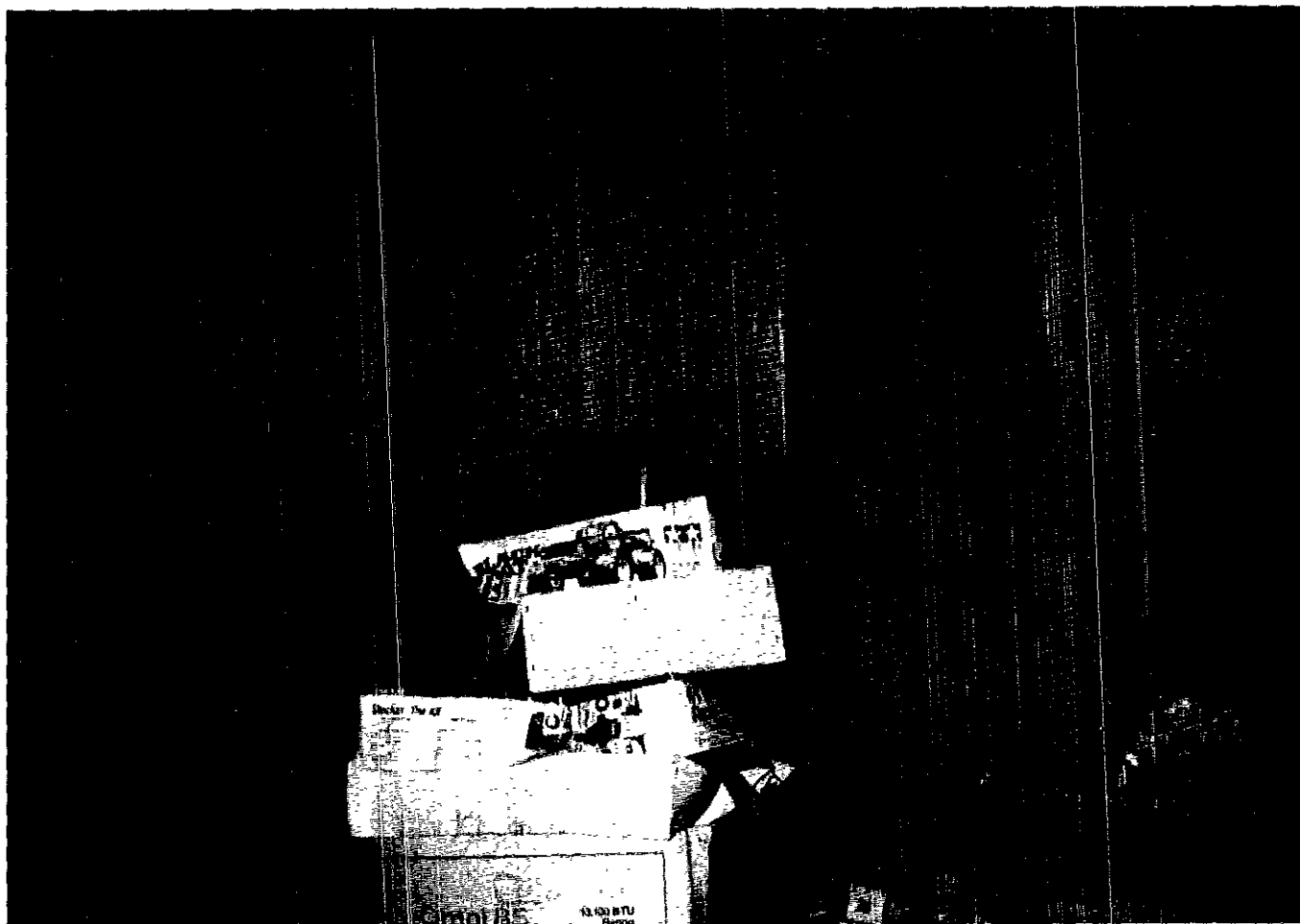
FRONT/SIDE ELEV.

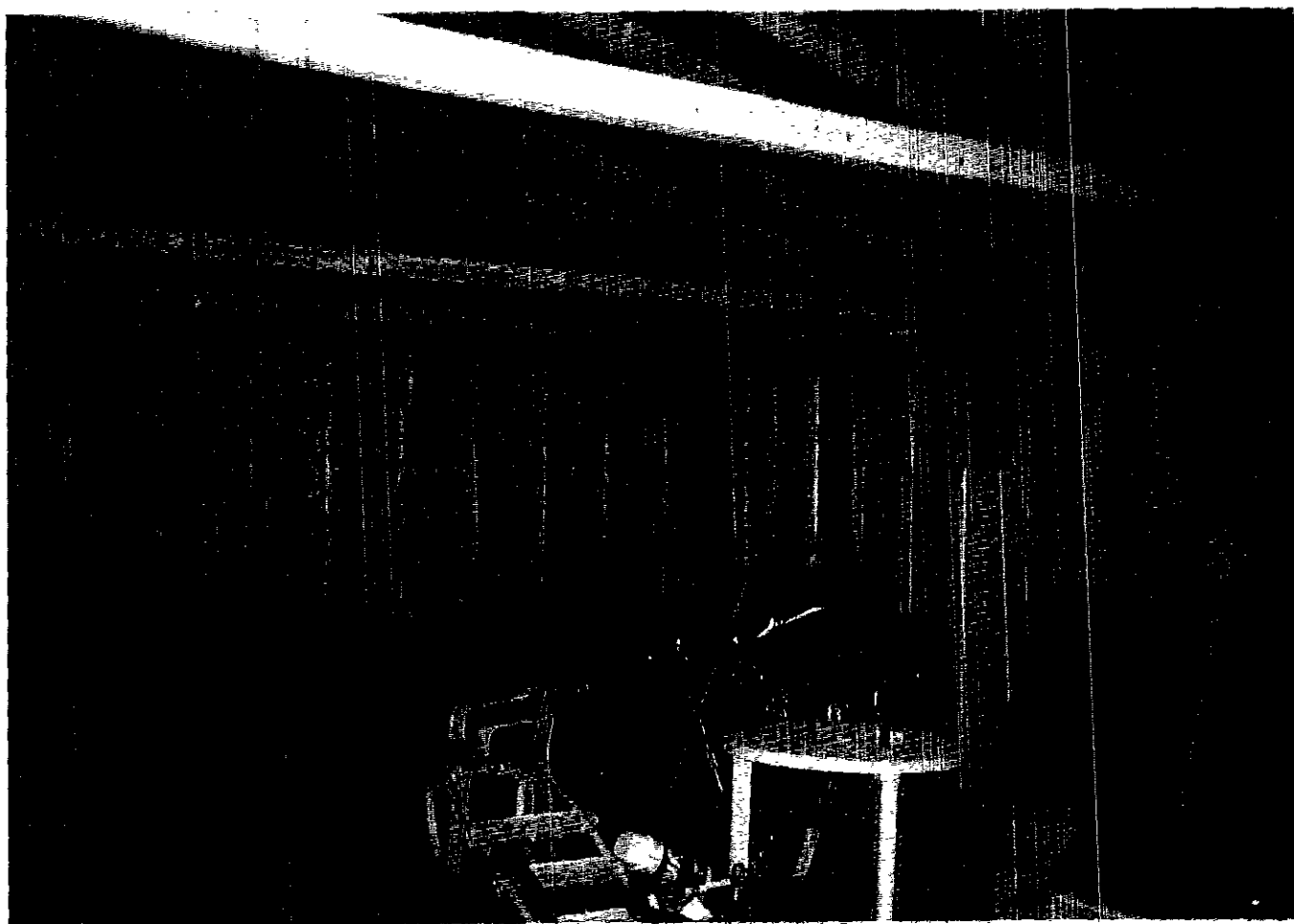
ITEM # ~~362~~ 362

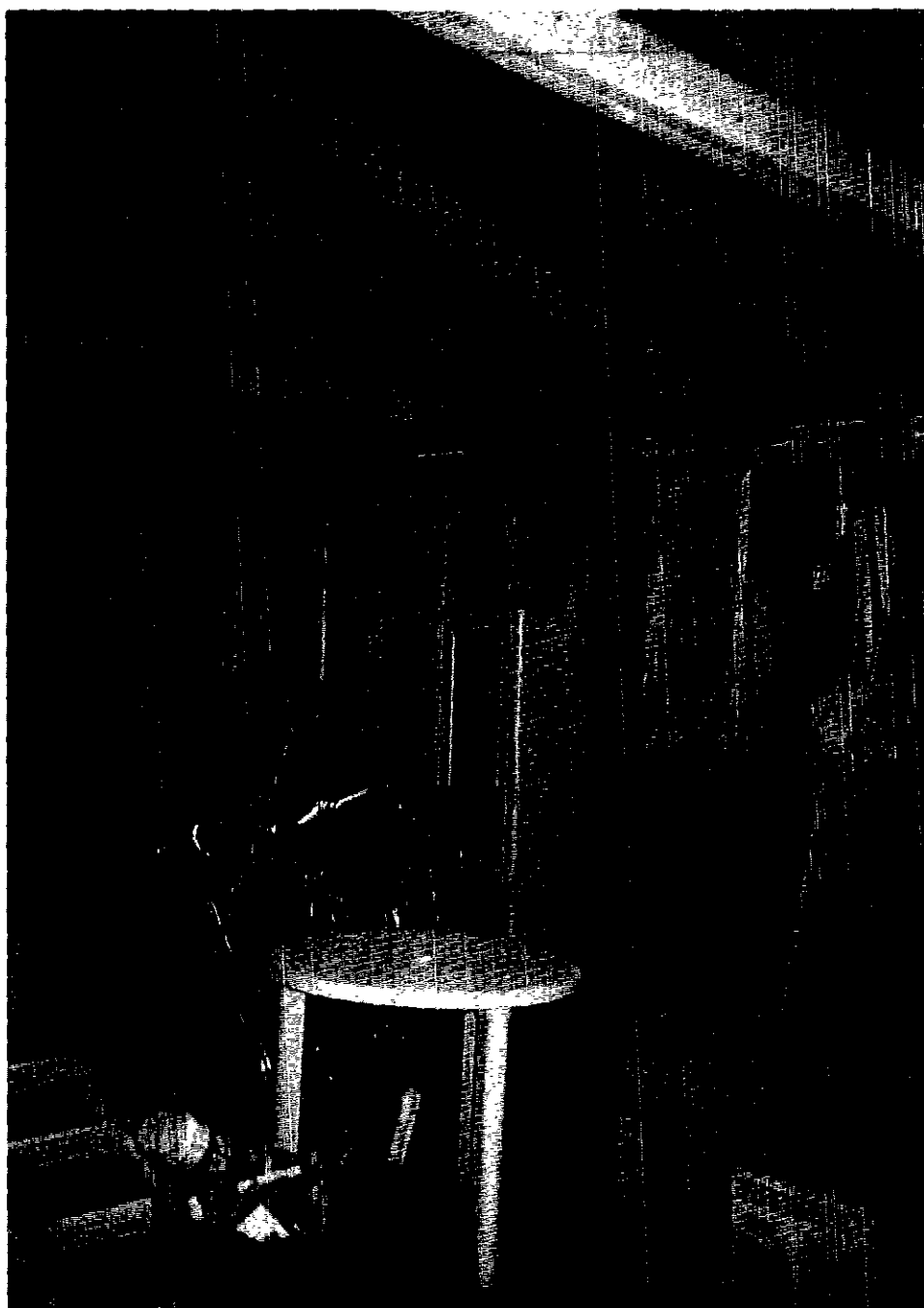
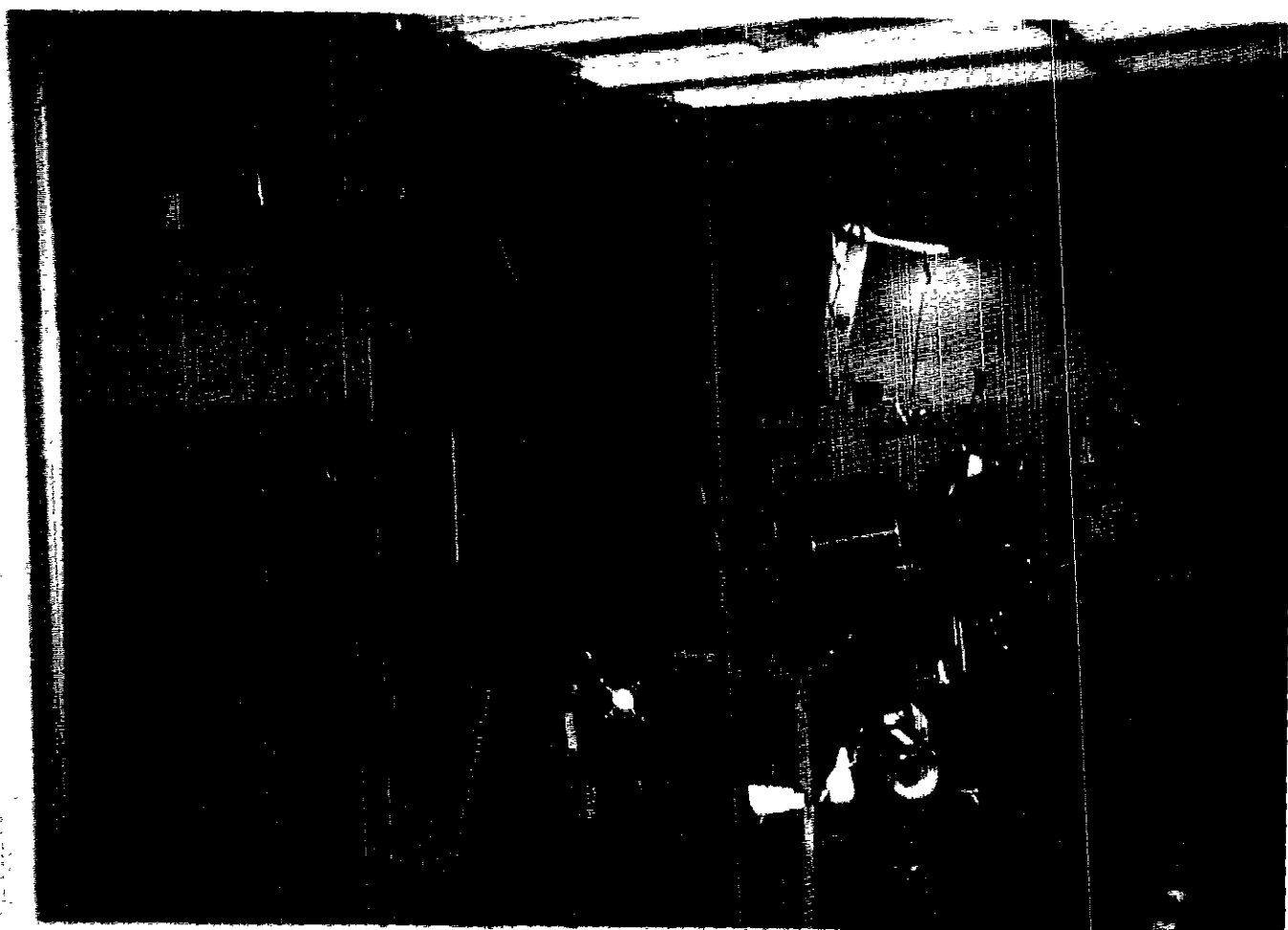
MICROFILMED





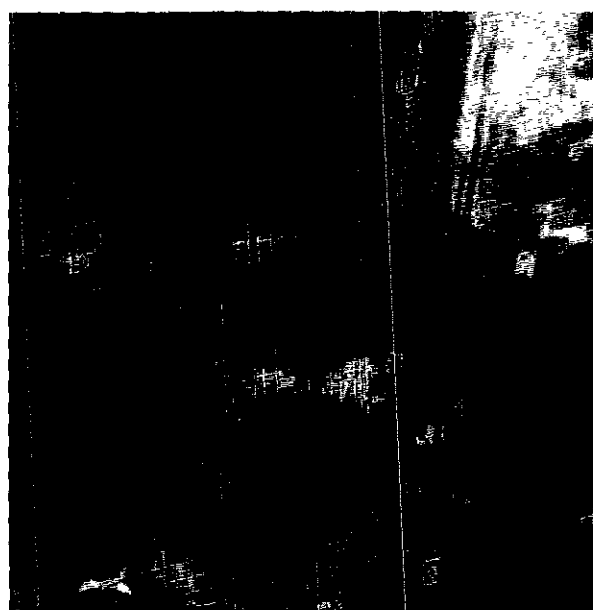




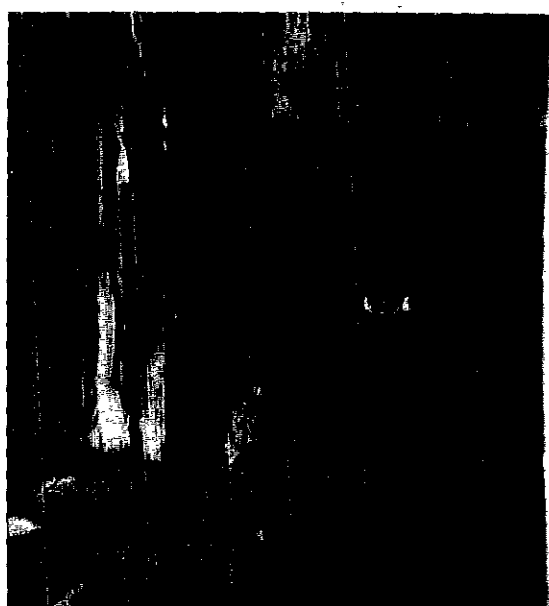




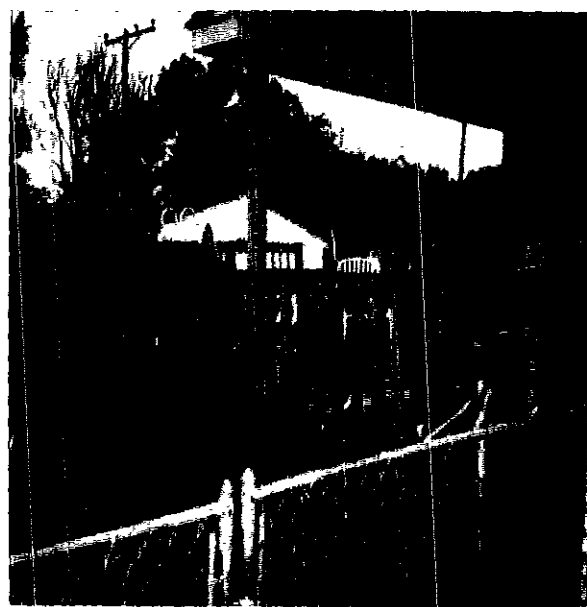
SIDE OF HOUSE



TODD'S ROOM



GRANDFATHER CLOCK





BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
PHOTOGRAPHIC MAP

SCALE
1" = 200'

DATE
OF
PHOTOGRAPHY
JANUARY
1986

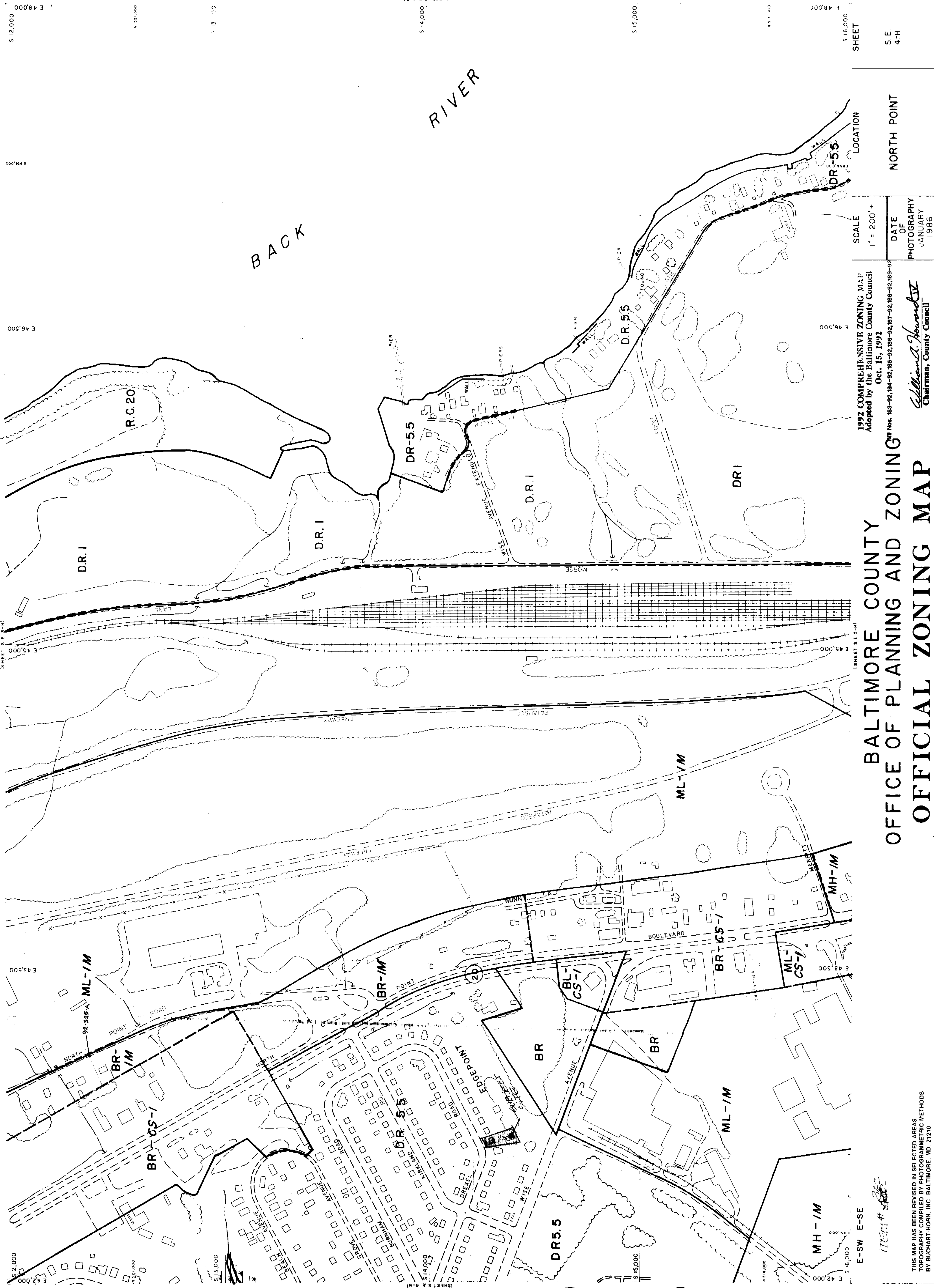
LOCATION
NORTH POINT

SHEET
S.E.
4-H

17511 # 366

PREPARED BY AIR PHOTOGRAPHICS, INC.
MARTINSBURG, W.V. 25401

95-366-A



1992 COMPREHENSIVE ZONING MAP
Adopted by the Baltimore County Council
Oct. 15, 1992
Bill Nos. 183-92, 184-92, 185-92, 186-92, 187-92, 188-92, 189-92

**BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
OFFICIAL ZONING MAP**

DATE OF PHOTOGRAPHY
JANUARY 1986
SCALE
1" = 200' ±
LOCATION
NORTH POINT
SHEET
S.E. 4-H

THIS MAP HAS BEEN REVISED IN SELECTED AREAS.
TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS
BY BUCHART-HORN, INC. BALTIMORE, MD. 21210

MICROFILMED

95-366-A

IN THE MATTER OF
THE APPLICATION OF
CARROLL COLEMAN, ET UX
FOR A VARIANCE ON PROPERTY
LOCATED ON THE SOUTH SIDE OF
DREXEL ROAD, 310' E OF THE
CENTERLINE OF KIRKLAND ROAD
(1731 DREXEL ROAD)
12TH ELECTION DISTRICT
7TH COUNCILMANIC DISTRICT
* * * * *

OPINION

This matter comes before the Board as a Petition for Administrative Variance for the property known as 1731 Drexel Road, located in the subdivision of Edgepoint between Wise Avenue and North Point Boulevard. The Petitioners are the property owners, Carroll and Rosalie Coleman and they were represented by Robert C. Turner, Esquire. Mr. David M. Warfel, Mr. Steven Wall and Mrs. Jean Wall, Protestants, appeared without counsel.

The Petitioners seek relief from Section 400.3 of the Baltimore County Zoning Regulations (BCZR) to permit an existing garage with a height of 21 feet in lieu of the maximum limit of 15 feet. The variance was denied below after hearing by Timothy M. Kotroco, Deputy Zoning Commissioner, for Baltimore County.

Evidence and testimony was received by the Board. Melinda Coleman, one of the Petitioners, testified that the home on the subject property was totally destroyed by a fire in 1991. The home was rebuilt. The present garage occupies the same footprint as always utilized by that structure and was the same width and length now as it has always been. Noting that virtually no property in the area, on account of its closeness to the water's edge was built with a basement, she related that, with three children, there was always a need for additional storage. She stated that, suffering from a sagging roof, the garage need repair anyway, and so in

Carroll Coleman, et ux Case No. 95-366-A

January, 1995, the subject addition was built. Under further examination, she stated that the additional space would be used for storage and household goods only and that the family's only alternative, had been to rent a self-storage location for \$100.00 per month for the previous two years.

Mr. Martin Staley, a neighbor since 1971, testified that the garage had been at its present location since he was twelve years old. Noting that the front of the Coleman home faced the back of his property, he had not seen nor been aware of any motor vehicle repair work being carried out on the Coleman property. Moreover, he related that Mr. Coleman had assisted him with some car repairs previously; but that the actual work had been done at a repair facility at another location.

Petitioner, Carroll Coleman, III, testified he was an Assistant Service Manager at Fox Chevrolet. He noted he did no repair work at his home, that there was no repair equipment located on the property, and that the only tools present, were his personal hand tools.

He confirmed that he had remodeled the garage in January, 1995, without the benefit of first obtaining a building permit. A new roof was added, along with additional space, resulting in the present 21 foot height of the structure. He also confirmed that a Stop Work Order was issued by the Department of Permits and Licensing and that thereafter, a Petition for Variance was filed. He described the structure as being for storage only and confirmed that since most of the homes in the area were unable to have basements, he felt the additional storage space was necessary and appropriate.

Carroll Coleman, et ux Case No. 95-366-A

Jean Wall, a resident on Drexel Road for 27 years, testified on behalf of the Protestants. She related that it was her belief traffic had increased since the garage had been rebuilt by the Petitioners and she had seen on several occasions a "rollback" truck with cars upon it at the site. Further, she testified she had heard various engine and what she described as "presser" noises which she believed came from the Petitioner's property.

She also testified that storage was always a difficulty, as there were no basements in most of the homes in the area due to its proximity to the water.

Under cross-examination, she agreed that there was a factory and storage area on the property directly behind the Petitioners, but did not believe the noise emanated from that location.

Mr. Coleman testified on rebuttal that there were several factories on the road and in the area and re-stated that there was no machinery for the repair of vehicles in the garage. He suggested that the sump pump under his property might be the source of the sounds noted by Mrs. Wall. He specifically denied that any "rollback" truck had been on the property.

The power to grant variances is derived from Section 307 of the BCZR. Section 307.1 says in part that a variance such as the one requested here would be granted "...only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance with the zoning regulations for Baltimore County would result in practical difficulty or unreasonable hardship."

The leading Maryland case dealing directly with the burden of proof in a variance matter is Cromwell v. Ward, 102 Md. App. 691

Carroll Coleman, et ux Case No. 95-366-A

(1995); 651 A. 2nd 424. In overturning the affirmation by the Circuit Court of the granting of a height variance by this Board of Appeals, the Court stated "... The Baltimore County ordinance requires "conditions ... peculiar to the land ... and ... practical difficulty ...". Both must exist. ... However, as is clear from the language of the Baltimore County ordinance, the initial factor that must be established before the practical difficulties, if any, are addressed, is the abnormal impact the ordinance has on a specific piece of property because of the peculiarity and uniqueness of that piece of property, not the uniqueness or peculiarity of the practical difficulties alleged to exist. (emphasis supplied) It is only when the uniqueness is first established that we then concern ourselves with the practical difficulties...." Id. at 698

In requiring a pre-requisite finding of "uniqueness", the Court defined the term and stated, "In the zoning context the 'unique' aspect of a variance requirement does not refer to the extent of improvements upon the property, or upon neighboring property. 'Uniqueness' of a property for zoning purposes requires that the subject property has an inherent characteristic not shared by other properties in the area, i.e., its shape, topography, subsurface condition, environmental factors, historical significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or other similar restrictions...." Id. at 710

The Board has reviewed the testimony and exhibits on the basis of and in light of the applicable regulations and case law. We believe that Petitioners have failed completely to establish any

Carroll Coleman, et ux Case No. 95-366-A

"uniqueness" of the subject property such that it would satisfy the first prong of the evidentiary requirements set forth in Cromwell. There was ample testimony from Petitioners as well as Protestants that there are few if any basements in the area due to its location and adjacent water level and that the need for storage is a problem faced by virtually all local residents. Petitioners offered no testimony which establishes for this Board that the Coleman property was in any way different than others in the same area.

Petitioner argues that the construction was necessary and in the spirit, if not strict compliance with zoning regulations. The Court of Special Appeals rejected that argument, saying "It is not the purpose of variance procedures to effect a legalization of a property owner's intentional or unintentional violations of zoning requirements. When administrative entities such as zoning authorities take it upon themselves to ignore the provisions of the statutes enacted by the legislative branch of government, they substitute their policies for those of the policymakers. That is improper...." Id. at 726

This Board concurs and denies Petitioners request for variance.

ORDER

IT IS THEREFORE this 20th day of June, 1996 by the County Board of Appeals of Baltimore County

ORDERED that the Petition for Administrative Variance filed by the property owners, CARROLL AND ROSALIE COLEMAN, Petitioners, for the property known as 1731 Drexel Road, located in the subdivision of Edgepoint between Wise Avenue and North Boulevard, to permit existing garage height of 21 feet in lieu of maximum permitted 15

Carroll Coleman, et ux Case No. 95-366-A

feet, be and is hereby DENIED; and it is further

ORDERED that the subject structure be brought into compliance with the zoning regulations within Ninety (90) days of the date of this Order.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Lawrence M. Stahl, Acting Chairman

S. Diane Levero

Margaret Worrall



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

June 20, 1996

Robert C. Turner, Esquire
POLOVOY & MCCOY
216 Schilling Circle
Hunt Valley, MD 21030

RE: Case No. 95-366-A
Carroll Coleman, et ux - Petitioners

Dear Mr. Turner:

Enclosed please find a copy of the final Opinion and Order issued this date by the County Board of Appeals of Baltimore County in the subject matter.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the Maryland Rules and Procedure. If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

Charlotte E. Radcliffe
Legal Secretary

Enclosure

cc: Mr. & Mrs. Carroll Coleman
Mr. David M. Warfel
Mr. Steven Wall
Chesapeake Bay Critical Area Commission
People's Counsel for Baltimore County
Pat Keller
Lawrence E. Schmidt
Arnold Jablon, Director /PDW
Virginia W. Barnhart, County Attorney

IN RE: PETITION FOR ADMIN. VARIANCE
372 Drexel Road, 310' E of the
Centerline of Kirkland Road
(1731 Drexel Road)
12th Election District
7th Councilmanic District
Carroll Coleman, et ux
Petitioners.

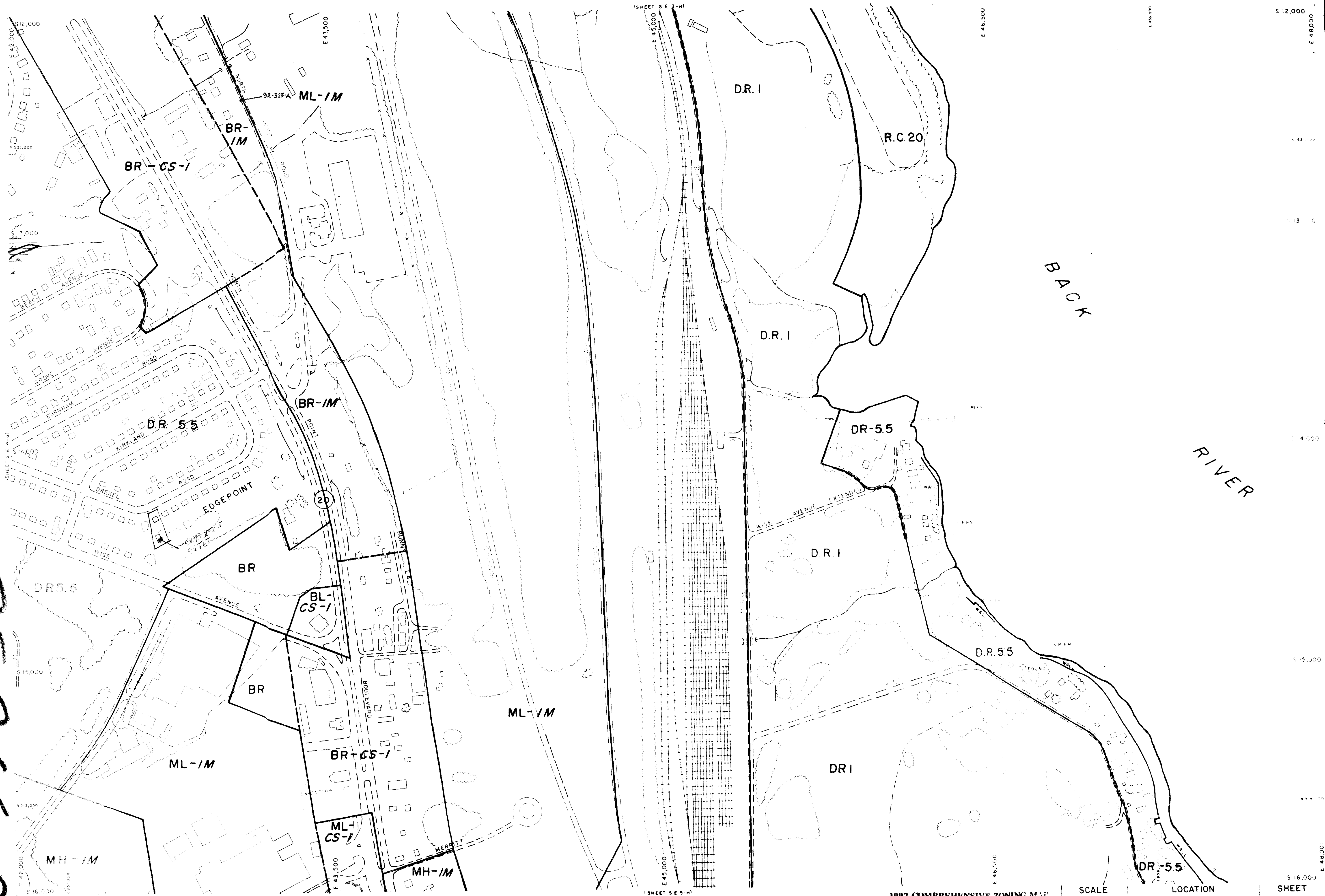
FINANCIAL STATEMENT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Administrative Variance for that property known as 1731 Drexel Road, located in the subdivision of Edgepoint between Wise Avenue and North Point Boulevard. The Petition was filed by the property owners, Carroll and Rosalie Coleman, through the Administrative Variance process; however, upon receipt of a Petition Against Zoning Exception which had been signed by many of the Petitioners' neighbors, the Zoning Commissioner deemed it necessary to hold a public hearing to determine the appropriateness of the relief requested. The Petitioners seek relief from Section 400.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an existing garage with a height of 21 feet in lieu of the maximum permitted 15 feet. The subject property and relief sought are more particularly described on the site plan submitted and accepted into evidence as Petitioner's Exhibit 1.

Appearing at the requisite hearing in support of the Petition were Carroll and Rosalie Coleman, property owners, and Jim McKinney, zoning consultant. Appearing as Protestants in the matter were David M. Warfel and Steven Wall, nearby residents of the area.

Testimony and evidence offered revealed that the subject property consists of 6.21 acres, more or less, zoned B.R. 5.5 and is improved with a 1.5 story dwelling with an attached deck which extends to an above-ground

95-366-A



BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
OFFICIAL ZONING MAP

1992 COMPREHENSIVE ZONING MAP
Adopted by the Baltimore County Council
Oct. 15, 1992

Bill Nos. 183-92, 184-92, 185-92, 186-92, 187-92, 188-92, 189-92

William A. Howard
Chairman, County Council

SCALE
1" = 200'

DATE
OF
PHOTOGRAPHY
JANUARY
1986

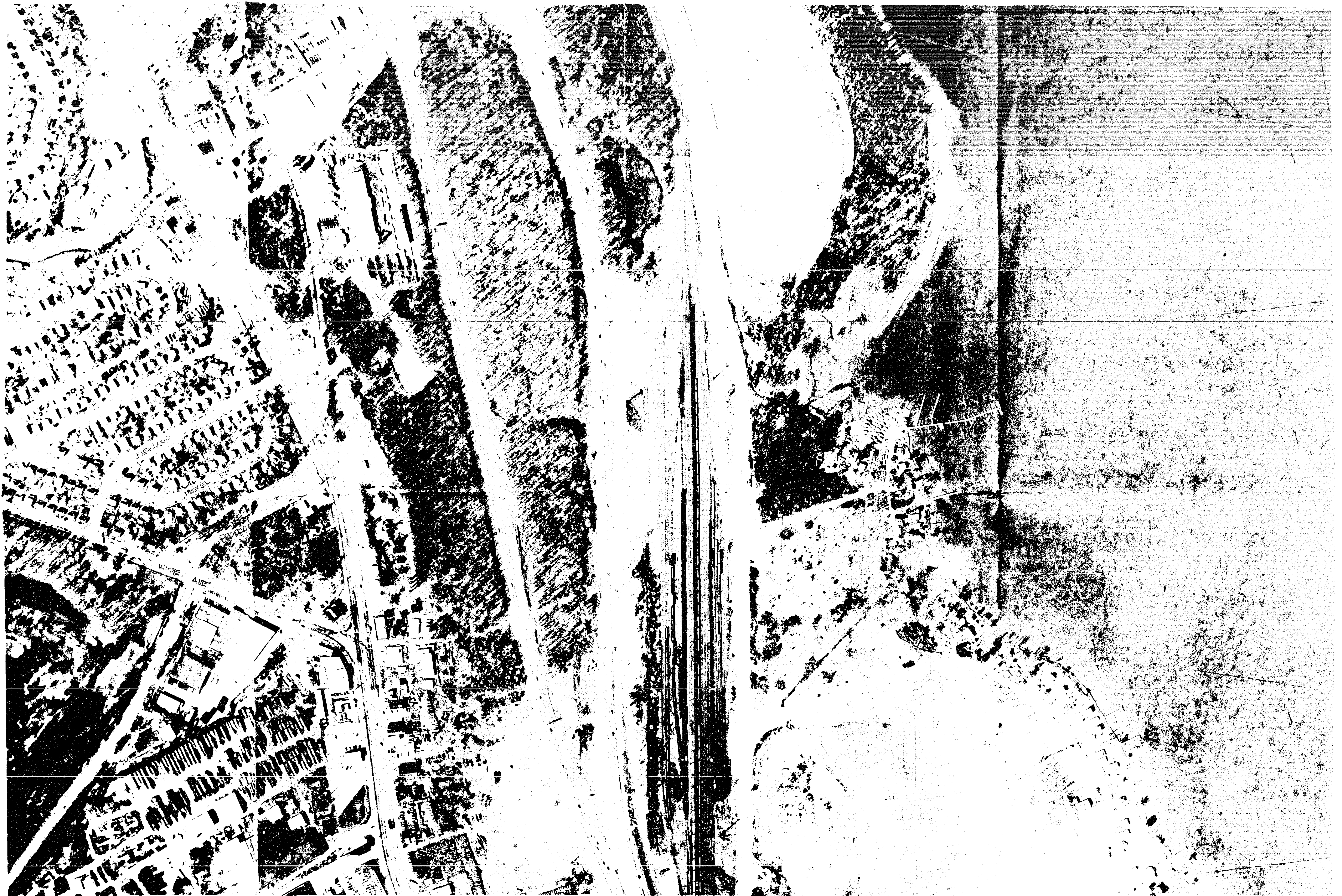
LOCATION

NORTH POINT

SHEET

S E
4-H

95-366-A



ITEM # 366
400

PREPARED BY AIR PHOTOGRAPHICS, INC.
MARTINSBURG, W. V. 25401

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
PHOTOGRAPHIC MAP

SCALE
1" = 200' ±

LOCATION

SHEET

DATE
OF
PHOTOGRAPHY
JANUARY
1986

NORTH POINT

S.E.
4-H

swimming pool, a shed, and a detached garage, which is the subject of this request. Testimony revealed that the Petitioner commenced construction of the subject garage over the Martin Luther King Holiday weekend in January, 1995 without benefit of a building permit. Upon receipt of a Stop Work Order from the Department of Permits and Licenses, Mr. Coleman filed the instant Petition to approve the height of the garage. Mr. Coleman testified that the subject garage existed on the property, but that he removed the original roof, remodeled the walls and added an additional room on top of the structure to provide needed storage space. The new structure stands at a height of 21 feet. The Petitioners have requested the variance to legitimize the existing structure.

As noted above, two of the Petitioners' neighbors appeared in opposition to the relief requested. These neighbors are very much concerned over the intended use of the subject garage by the Petitioner. They testified that Mr. Coleman owns and operates an automotive repair and towing business and that on occasion, the Petitioner has brought trucks with automobiles in tow to the site. They presented photographs of the property depicting the garage in question as well as a roll-back tow truck which had one automobile loaded thereon and one in tow. The Protestants are concerned that commercial traffic associated with the Petitioner's business will pose a safety issue to the children in this area. They are also concerned that the Petitioner will attempt to perform service work on vehicles inside the garage. Lastly, the Protestants believe that the Petitioner constructed the garage in total disregard for the law by not obtaining a building permit. They do not recall that a garage existed in the rear yard and believe that the entire structure was newly built. They

recalled that the shell for the garage was erected over the holiday weekend celebrating the birthday of Martin Luther King, Jr.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial justice to the applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

After due consideration of the testimony and evidence offered by both the Petitioners and the Protestants, I am persuaded to deny the variance. The Petitioners have failed to satisfy the burden imposed on them in order for a variance to be granted. There was insufficient testimony and evidence to support the necessity of a variance to height restrictions. Furthermore, it was noted in the file that although a Stop Work Order had been issued, the Petitioner continued construction of the subject garage without benefit of a building permit. The Petitioners have failed to show that compliance would unreasonably prevent the use of the property or be unnecessarily burdensome. Therefore, the variance must be denied.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be denied.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 16th day of July, 1995 that the Petition for Administrative Variance seeking relief from Section 400.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an existing garage with a height of 21 feet in lieu of the maximum permitted 15 feet, in accordance with Petitioner's Exhibit 1, be and is hereby DENIED; and,

IT IS FURTHER ORDERED that the subject structure be brought into compliance with the zoning regulations within sixty (60) days of the date of this Order; and,

IT IS FURTHER ORDERED that no automotive service work shall be performed on the premises, nor shall the operation of any commercial enterprise take place on the subject property; and,

IT IS FURTHER ORDERED that the Petitioners shall have thirty (30) days from the date of this Order to file an appeal of this decision.

Timothy M. Kotroco
TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

Suite 112 Courthouse
400 Washington Avenue
Towson, MD 21204

July 10, 1995

(410) 887-4386

Mr. & Mrs. Carroll Coleman
1731 Drexel Road
Baltimore, Maryland 21222

RE: PETITION FOR ADMIN. VARIANCE
S/S Drexel Road, 310' E of the c/l of Kirkland Road
(1731 Drexel Road)
12th Election District - 7th Councilmanic District
Carroll Coleman, et ux - Petitioners
Case No. 95-366-A

Dear Mr. & Mrs. Coleman:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Administrative Variance has been denied in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Permits and Development Management office at 887-3391.

Very truly yours,

Timothy M. Kotroco
TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

cc: Mr. David M. Warfel
1724 Drexel Road, Baltimore, Md. 21222

Mr. Steven Wall
1723 Drexel Road, Baltimore, Md. 21222

Chesapeake Bay Critical Areas Commission
45 Calvert Street, 2nd Floor, Annapolis, Md. 21401

DEPRM; People's Counsel; Case File

Printed with Recycled Ink
on Recycled Paper



Petition for Administrative Variance to the Zoning Commissioner of Baltimore County

for the property located at 1731 DREXEL ROAD
which is presently zoned DR 5.5

This Petition shall be filed with the Office of Zoning Administration & Development Management.
The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) 400.3

To permit an existing garage of 21 feet high for storage use in lieu of the required 15 feet.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons (indicate hardship or practical difficulty):

We desperately need storage space. I can not meet the impervious surface requirements to add another building on my property so I would like approval for an exemption to the height restriction on an accessory building (garage).

Property is to be posted and advertised as prescribed by Zoning Regulations.
I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Under penalty of perjury, I declare that the facts stated in this petition are true and correct to the best of my knowledge and belief.

Legal Owner(s)

Contract Purchaser/Lessee

(Type or Print Name)

Signature

Address

City

State

Zip

Phone No.

Attorney for Petitioner

(Type or Print Name)

Signature

Address

City

State

Zip

Phone No.

A Public Hearing having been requested and/or found to be required, it is ordered by the Zoning Commissioner of Baltimore County, this 16th day of July, 1995, that the subject petition for a Variance from Section(s) 400.3 of the Zoning Regulations of Baltimore County, is hereby approved or denied, as indicated below, and that the property be rezoned accordingly.

By Timothy M. Kotroco, Deputy Zoning Commissioner

My Commission Expires: 9/1/97

Affidavit in support of Administrative Variance

The undersigned hereby affirms under the penalties of perjury to the Zoning Commissioner of Baltimore County, as follows:
That the information herein given is within the personal knowledge of the Affiant(s) and that Affiant(s) are competent to testify thereon in the event that a public hearing is scheduled in the future with regard thereto.

That the Affiant(s) do(es) presently reside at 1731 DREXEL ROAD
Baltimore MD 21222

That based upon personal knowledge, the following are the facts upon which I/we base the request for an Administrative Variance at the above address (indicate reasons or practical difficulty):

I desperately need storage space. I can not meet the impervious surface requirements to add another building on my property so I would like approval for an exemption to the height restriction on an accessory building (garage).

That Affiant(s) acknowledge(s) that if a protest is filed, Affiant(s) will be required to pay a reposting and advertising fee and may be required to provide additional information.

That Affiant(s) acknowledge(s) that if a protest is filed, Affiant(s) will be required to pay a reposting and advertising fee and may be required to provide additional information.

STATE OF MARYLAND, COUNTY OF BALTIMORE, to-wit:

I HEREBY CERTIFY, this 23 day of March, 1995, before me, a Notary Public of the State of Maryland, as and for the County aforesaid, personally appeared

CARROLL C. COLEMAN and ROSALIE M. COLEMAN

the Affiant(s) herein, personally known or satisfactorily identified to me as such Affiant(s), and made oath in due form of law that the within and facts hereinabove set forth are true and correct to the best of their/her/his knowledge and belief.

AS WITNESS my hand and Notarial Seal

this 23rd day of March, 1995

My Commission Expires: 9/1/97

EXAMPLE 3 - Zoning Description - 3 copies

Three copies of the zoning description of your property are required. This is a sample to help you with the description - DO NOT USE THIS FORM FOR "FILL-IN THE BLANK". Type or print the description on 8-1/2" x 11" paper. COPIES OF DEEDS CANNOT BE USED FOR THE DESCRIPTION. The zoning description must be in the following form:

ZONING DESCRIPTION FOR 1731 DREXEL RD
(address)

Beginning at a point on the SOUTH side of DREXEL RD, (name of street)

which is 50' wide, "being lot # 12", (number of feet of right-of-way width)

street on which property fronts) (number of feet of right-of-way width)

wide at the distance of 310' EAST of the (number of feet) (north, south, east or west)

centerline of the nearest improved intersecting street (name of street)

which is 50' wide, "being lot # 12", (number of feet of right-of-way width)

Block C, Section 8 in the subdivision of EDGE POINT (name of subdivision)

as recorded in Baltimore County Plat Book # 18, Folio # 18, containing (square feet or acres)

Also known as 1731 DREXEL RD (properly address)

and located in the 12 Election District, 7 Councilmanic District.

"If your property is not recorded by Plat Book and Folio Number, then DO NOT attempt to use the Lot, Block and Subdivision description as shown, instead state: "As recorded in Deed Liber ---, Folio ---" and include the measurements and directions (metes and bounds only) here and on the plat in the correct location.

Typical metes and bounds: N. 07° 12' 13" E. 321.1 ft., S. 10° 21' 03" E. 87.2 ft., S. 62° 18' 00" W. 318 ft., and N. 08° 15' 22" W. 80 ft. to the place of beginning.

CK/RESID (TKTSPH)

REVISED 5/16/94

CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District 12th Date of Posting 7/14/95

Posted for: Variance

Petitioner: Carroll C. Coleman

Location of property: 1731 Drexel Rd

Location of Sign: Along road way from property back yard

Remarks: None

Posted by: M. Kotroco Date of return: 7/15/95

Number of Signs: 1

CERTIFICATE OF PUBLICATION

TOWSON, MD. 6/1, 1995

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 6/1, 1995

THE JEFFERSONIAN,
A. Henricson
LEGAL AD. - TOWSON

receipt
95-366-A

Zoning Administration & Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

Date 4-17-95

131 Drexel Rd.
BALT. MD 21222

AD - ADJ. VARIANCE - \$ 500
AD - POSTING FEE - \$ 250
TOTAL \$ 750

Please Make Checks Payable To: Baltimore County

Cashier Validation

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District 12th Date of Posting 4/15/95

Posted for: Carroll Coleman

Petitioner: Carroll Coleman

Location of property: 1731 Drexel Rd.

Location of Sign: Carroll Coleman, property being posted

Remarks:

Posted by: [Signature] Date of return: 4/15/95

Number of Signs: 1

In view of petition against variance signed by many neighbors, set up for hearing

4/28

5/17/95

Baltimore County Government
Office of Zoning Administration and Development Management

111 West Chesapeake Avenue
Towson, MD 21204 (410) 887-3353

ZONING HEARING ADVERTISING AND POSTING REQUIREMENTS & PROCEDURES

Baltimore County Zoning Regulations require that notice be given to the general public/neighbors property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property and placement of a notice in at least one newspaper of general circulation in the County.

This office will ensure that the legal requirements for posting and advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements.

PAYMENT WILL BE MADE AS FOLLOWS:

- 1) Posting fees will be assessed and paid to this office at the time of filing.
- 2) Billing for legal advertising, due upon receipt, will come from and should be remitted directly to the newspaper. NON-PAYMENT OF ADVERTISING FEES WILL STAY ISSUANCE OF ZONING ORDER.

[Signature] ARNOLD JABLON, DIRECTOR

For newspaper advertising:
Item No.: 402-262-
Petitioner:
Location:
PLEASE FORWARD ADVERTISING BILL TO:
NAME: Carroll Coleman
ADDRESS: 1731 Drexel Rd.
Baltimore, MD 21222
PHONE NUMBER: 477-0174

Aligge (Revised 04/09/93)

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District 12th Date of Posting 4/15/95

Posted for: Carroll Coleman

Petitioner: Carroll Coleman

Location of property: 1731 Drexel Rd.

Location of Sign: Carroll Coleman, property being posted

Remarks:

Posted by: [Signature] Date of return: 6/8/95

Number of Signs: 1

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No.

DATE 5-31-95 ACCOUNT 95-366-A

AMOUNT \$ 750

RECEIVED FROM Carroll Coleman, MD

FOR: Posting 95-366-A

VALIDATION OR SIGNATURE OF CASHIER

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No.

DATE 5-31-95 ACCOUNT 95-366-A

AMOUNT \$ 750

RECEIVED FROM Carroll Coleman, MD

FOR: Posting 95-366-A

VALIDATION OR SIGNATURE OF CASHIER

TO: PUTNEY PUBLISHING COMPANY
June 1, 1995 issue - Jeffersonian

Please forward billing to:
Carroll and Rosalie Coleman
1731 Drexel Road
Baltimore, MD 21222
485-2885

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 95-366-A (Item 362)
1731 Drexel Road
S/S Drexel Road, 310' +/- E of c/1 Kirkland Road
12th Election District - 7th Councilmanic
Legal Owner(s): Carroll Coleman and Rosalie Coleman
HEARING: TUESDAY, JUNE 20, 1995 at 9:00 a.m. in Room 118, Old Courthouse.

Variance to permit an existing garage of 21 feet high for storage use in lieu of the required 15 feet.

LAURENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, PLEASE CALL 887-3391.

Baltimore County Government
Office of Zoning Administration and Development Management

111 West Chesapeake Avenue
Towson, MD 21204 (410) 887-3353

May 24, 1995

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 95-366-A (Item 362)
1731 Drexel Road
S/S Drexel Road, 310' +/- E of c/1 Kirkland Road
12th Election District - 7th Councilmanic
Legal Owner(s): Carroll Coleman and Rosalie Coleman
HEARING: TUESDAY, JUNE 20, 1995 at 9:00 a.m. in Room 118, Old Courthouse.

Variance to permit an existing garage of 21 feet high for storage use in lieu of the required 15 feet.

[Signature] ARNOLD JABLON, DIRECTOR

cc: Carroll and Rosalie Coleman
Thomas S. Worthman
David M. Warfel

NOTES: (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE.
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.

Baltimore County Government
Office of Zoning Administration and Development Management

111 West Chesapeake Avenue
Towson, MD 21204 (410) 887-3353

April 28, 1995

NOTICE OF CASE NUMBER ASSIGNMENT

Re: CASE NUMBER: 95-366-A (Item 362)
1731 Drexel Road
S/S Drexel Road, 310' +/- E of c/1 Kirkland Road
12th Election District - 7th Councilmanic
Legal Owner(s): Carroll Coleman and Rosalie Coleman

Please be advised that your Petition for Administrative Zoning Variance has been assigned the above case number. Further, made with this office regarding the status of this case should reference the case number and be directed to 887-3391. This notice also serves as a refresher regarding the administrative process.

- 1) Your property will be posted on or before April 30, 1995. The closing date (May 15, 1995) is the deadline for a neighbor to file a formal request for a public hearing. After the closing date, the file will be reviewed by the Zoning or Deputy Zoning Commissioner. They may (a) grant the requested relief, (b) deny the requested relief, or (c) demand that the matter be set in for a public hearing. You will receive written notification as to whether or not your petition has been granted, or will go to public hearing.
- 2) In cases requiring public hearing (whether due to a neighbor's formal request or by order of the Commissioner), the property will be reported and notice of the hearing will appear in a Baltimore County newspaper. Charges related to the reporting and newspaper advertising are payable by the petitioner(s).
- 3) Please be advised that you must return the sign and post to this office. They may be returned after the closing date. Failure to return the sign and post will result in a \$60.00 charge.

PLEASE UNDERSTAND THAT ON THE DATE AFTER THE POSTING PERIOD, THE PROCESS IS NOT COMPLETE. THE FILE MUST GO THROUGH FINAL REVIEW. ORDERS ARE NOT AVAILABLE FOR DISTRIBUTION VIA PICK-UP. WHEN READY, THE ORDER WILL BE FORWARDED TO YOU VIA FIRST CLASS MAIL.

[Signature] ARNOLD JABLON, DIRECTOR

cc: Carroll and Rosalie Coleman

County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

Hearing Room - Room 48
Old Courthouse, 400 Washington Avenue

December 12, 1995

NOTICE OF ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

CASE NO. 95-366-A CARROLL COLEMAN, ET UX
310' E of the c/1 of Kirkland Road
(1731 Drexel Road)
12th Election District
7th Councilmanic District

VAR -To permit existing garage height of 21' in lieu of maximum permitted 15'.
7/10/95 -D.Z.C.'s order in which Petition for Variance is DENIED.

ASSIGNED FOR: WEDNESDAY, FEBRUARY 7, 1996 at 10:00 a.m.

cc: Robert C. Turner, Esquire Counsel for Petitioners /Appellants
Mr. & Mrs. Carroll Coleman Petitioners /Appellants

Mr. David M. Warfel
Mr. Steven Wall
Chesapeake Bay Critical Area Commission

People's Counsel for Baltimore County
Pat Keller /Planning Director
Timothy M. Kotroco
W. Carl Richards, Jr. /PDM
Docket Clerk /PDM
Arnold Jablon, Director /PDM
Larry Pilson /DEPRM
Virginia W. Barnhart, County Attorney

Kathleen C. Bianco
Administrative Assistant

Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

May 11, 1995

Mr. and Mrs. Carroll Coleman
1731 Drexel Road
Baltimore, Maryland 21222

RE: Item No.: 362
Case No.: 95-366-A
Petitioner: C. Coleman, et ux

Dear Mr. and Mrs. Coleman:

The Zoning Advisory Committee (ZAC), which consists of representatives from Baltimore County approving agencies, has reviewed the plans submitted with the above referenced petition. Said petition was accepted for processing by the Office of Zoning Administration and Development Management (ZADM), Development Control Section on April 17, 1995.

Any comments submitted thus far from the members of ZAC that offer or request information on your petition are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties; i.e., zoning commissioner, attorney, petitioner, etc. are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. Only those comments that are informative will be forwarded to you; those that are not informative will be placed in the permanent case file.

If you need further information or have any questions regarding these comments, please do not hesitate to contact the commenting agency or Joyce Watson in the zoning office (887-3391).

Sincerely,

W. Carl Richards, Jr.
Zoning Supervisor

WCR/jw
Attachment(s)

Baltimore County Government
Fire Department

700 East Joppa Road, Suite 901
Towson, MD 21286-5500

(410) 887-4500

DATE: 05/05/95

Arnold Jablon,
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Room 109
111 W. Chesapeake Avenue
Towson, MD 21204
MAIL STOP 1109

RE: Property Owner: SEE BELOW

LOCATION: DISTRIBUTION MEETING RE MAY 11, 1995.

Item No.: SEE BELOW Zoning Agency:

Geographic:

Pursuant to your request, the referenced property has been surveyed by this Bureau. And the contents below are applicable and approved to be converted or incorporated into the final plans for the property.

B. The Fire Marshal's Office has no comments at this time.
IN REFERENCE TO THE FOLLOWING ITEM NUMBERS: 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, and 377.

REVIEWER: LT. ROBERT P. SAUERBALE
Fire Marshal Office, PHONE: 887-4691, 887-1109

cc: File

Printed on Recycled Paper

Maryland Department of Transportation
State Highway Administration

O. James Lighthizer
Secretary
Hal Kassoff
Administrator

Ms. Joyce Watson
Zoning Administration and
Development Management
County Office Building
Room 109
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Baltimore County
Item No.: 362 (RT)

Dear Ms. Watson:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not effected by any State Highway Administration project.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,

Bob Small
for Ronald Burns, Chief
Engineering Access Permits
Division

BS/

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director DATE: May 8, 1995
Zoning Administration and Development Management

FROM: Robert W. Bowling, P.E., Chief
Developers Engineering Section

RE: Zoning Advisory Committee Meeting
for May 8, 1995
Items 362, 363, 364, 366, 367, 369, 372, 373, 374 and 375 and Case No. 95-308-X

The Developers Engineering Section has reviewed the subject zoning item and we have no comments.

RWB:aw

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration &
Development Management

FROM: Pat Keller, Director
Office of Planning and Zoning

DATE: May 4, 1995

SUBJECT: Variance Requests

INFORMATION:
Item Numbers: 362, 363, 364, 367, 372, 374, 380 and 383.

SUMMARY OF RECOMMENDATIONS:

While staff does not oppose the requested Variances, it is clear that the petitioners will need to satisfy the burden imposed upon them to prove practical difficulty and/or unreasonable hardship to justify the granting of the subject Variances.

Prepared by: Jeffrey M. Day

Division Chief: Cary L. Lewis

PK/JL

DISAPPROVED

- ☐ Incomplete Installation
☒ Violation
☒ See Attached Correction Notice

Permit Required
For Garage

WHEN READY FOR REINSPECTION CALL:

- ☒ BUILDING 887-3953
☐ PLUMBING 887-3620
☐ ELECTRICAL 887-3960

BALTIMORE COUNTY, MARYLAND
OFFICE OF THE BUILDING ENGINEER

JOB LOCATION: 1731 Drexel Rd

DISTRICT: 15 DIST.
PERMIT NO.: NONE

STOP WORK NOTICE

I HAVE THIS DAY INSPECTED THIS STRUCTURE AND THEREFORE HAVE FOUND THE FOLLOWING VIOLATIONS OF THE LAWS OF BALTIMORE COUNTY CODE:

1. 362, 363, 364, 367, 372, 374, 380 and 383.

2. 362, 363, 364, 367, 372, 374, 380 and 383.

3. 362, 363, 364, 367, 372, 374, 380 and 383.

4. 362, 363, 364, 367, 372, 374, 380 and 383.

5. 362, 363, 364, 367, 372, 374, 380 and 383.

6. 362, 363, 364, 367, 372, 374, 380 and 383.

7. 362, 363, 364, 367, 372, 374, 380 and 383.

8. 362, 363, 364, 367, 372, 374, 380 and 383.

9. 362, 363, 364, 367, 372, 374, 380 and 383.

10. 362, 363, 364, 367, 372, 374, 380 and 383.

11. 362, 363, 364, 367, 372, 374, 380 and 383.

12. 362, 363, 364, 367, 372, 374, 380 and 383.

13. 362, 363, 364, 367, 372, 374, 380 and 383.

14. 362, 363, 364, 367, 372, 374, 380 and 383.

15. 362, 363, 364, 367, 372, 374, 380 and 383.

16. 362, 363, 364, 367, 372, 374, 380 and 383.

17. 362, 363, 364, 367, 372, 374, 380 and 383.

18. 362, 363, 364, 367, 372, 374, 380 and 383.

19. 362, 363, 364, 367, 372, 374, 380 and 383.

20. 362, 363, 364, 367, 372, 374, 380 and 383.

Baltimore County Government
Department of Permits and Licenses

111 West Chesapeake Avenue
Towson, MD 21204

January 27, 1995

(410) 887-3610

Carroll & Rosalie Coleman 388-059
1731 Drexel Road
Baltimore, MD 21222

Re: B-95-020-15
1731 Drexel Road
Permit required for garage.

Dear Mr. & Mrs. Coleman:

Our records indicate that you were informed of a building code violation at the referenced location. The building inspector assigned to your area has reported that the condition has not been corrected and that the violation is continuing.

A hearing has been scheduled on Thurs., Feb. 16, 1995 at 11:00 a.m. in Room 100 of the County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland to discuss this matter.

The purpose of this hearing is a final attempt to resolve this problem and avoid the necessity of filing criminal charges against you in the District Court of Maryland for the violation of the Baltimore County Building Code.

Your presence at the hearing is required. You may be represented by an attorney if you wish, and present any information you feel is pertinent.

If the matter referred to above has been corrected, or there is any other reason you feel the hearing should not be held, please call the inspector at 887-3953 between 7:30 and 8:15 a.m. or you may contact him in writing at the above address.

Very truly yours,

Errol Ecker
Building Supervisor

cc: date file
b file
inspector - Jones

362
ITEM # 400

Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21204

May 19, 1995

(410) 887-3353

Carroll and Rosalie Coleman
1731 Drexel Road
Baltimore, Maryland 21222

Re: CASE NUMBER: 95-366-A (Item 362)
1731 Drexel Road
S/S Drexel Road, 310' +/- E of c/l Kirkland Road
12th Election District - 7th Councilmanic

Dear Petitioners:

It has been determined by the Zoning Commissioner's Office that this matter should be set in for public hearing. Formal notification of the hearing date will be forwarded to you shortly.

As you recall, it now becomes necessary that we repost the property and run notice of the hearing in a newspaper of general circulation.

The reposting charge in the amount of \$35.00 is now due. Your check in this amount should be made payable to "Baltimore County, Maryland" and immediately mailed to this office.

Billing for legal advertising, due upon receipt, will come from and should be remitted directly to the newspaper.

If you have any questions concerning this letter, you may contact Gwen Stephens at 887-3391.

Arnold Jablon, Director

AJ:egg



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3610

August 1, 1995

Mr. David M. Warfel
1724 Drexel Road
Baltimore, Maryland 21222

Mr. Steven Wall
1723 Drexel Road
Baltimore, Maryland 21222

RE: Petition for Zoning Variance
1731 Drexel Road
310' E. of the c/l of Kirkland Road
12th Election District
7th Councilmanic District
Carroll Coleman, et ux - Petitioner
Case No. 95-366-A (Item 362)

Dear Mr. Warfel and Mr. Wall:

Please be advised that an appeal of the above-referenced case was filed in this office on July 25, 1995 by Robert C. Turner, Esquire, on behalf of Carroll and Rosalie Coleman. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals, "Board".

If you have any questions concerning this matter, please do not hesitate to contact the Board at 887-3180.

Sincerely,

ARNOLD JABLON
Director

AJ:bb

cc: Chesapeake Bay Critical Areas Commission
People's Counsel

APPEAL

Petition for Administrative Variance
1731 Drexel Road
310' E. of the c/l of Kirkland Road
12th Election District - 7th Councilmanic District
Carroll Coleman, et ux - Petitioners
Case No. 95-366-A (Item 362)

Petition for Variance

Description of Property

Certificate of Posting

Certificate of Publication

Zoning Plans Advisory Committee Comments

Petitioner(s) and Protestant(s) Sign-In Sheets

Petitioner's Exhibits: 1 - Plat to accompany Petition
for zoning variance
2 - Five Photographs

Protestant's Exhibits: 1 - Fifteen Photographs

Petition Against Zoning Exception by Residents of Drexel Road

Letter to Carroll and Rosalie Coleman from Arnold Jablon
dated May 19, 1995

Letter to Carroll and Rosalie Coleman from Errol Ecker
dated January 27, 1995

Stop Work Notice dated January 25, 1995

Deputy Zoning Commissioner's Order dated July 10, 1995 (Denied)

Notice of Appeal received on July 25, 1995 from Robert C. Turner,
Esquire on behalf of Carroll and Rosalie Coleman

cc: Robert C. Turner, Esquire, Polowoy & McCoy, 216 Schilling Circle,
Hunt Valley, Maryland 21030
Mr. David M. Warfel, 1724 Drexel Road, Baltimore, Maryland 21222
Mr. Steven Wall, 1723 Drexel Road, Baltimore, Maryland 21222
Chesapeake Bay Critical Areas Commission, 45 Calvert Street,
2nd Floor, Annapolis, Maryland 21401
People's Counsel of Baltimore County, M.S. 2010

Request Notification: Pat Keller, Director, Planning & Zoning
Timothy M. Kotroco, Deputy Zoning Commissioner
Larry Pilson, DEPRM
Arnold Jablon, Director of PDM

12/12/95 -Notice of Assignment for hearing scheduled for Wednesday,
February 7, 1995 at 10:00 a.m. sent to following:

Robert C. Turner, Esquire
Mr. & Mrs. Carroll Coleman
Mr. David M. Warfel
Mr. Steven Wall
Chesapeake Bay Critical Area Commission
People's Counsel for Baltimore County
Pat Keller /Planning Director
Timothy M. Kotroco
W. Carl Richards, Jr. /PDM
Docket Clerk /PDM
Arnold Jablon, Director /PDM
Larry Pilson /DEPRM
Virginia W. Barnhart, County Attorney

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

MINUTES OF DELIBERATION

IN THE MATTER OF: Carroll Coleman, et ux -Petitioners
Case No. 95-366-A

DATE : February 7, 1996 /at conclusion of hearing

BOARD /PANEL : Lawrence M. Stahl (LMS)
S. Diane Levero (SDL)
Margaret Worrall (MW)

SECRETARY : Kathleen C. Bianco
Administrative Assistant

Those present at this deliberation included Robert C. Turner, Esquire, on behalf of Appellants /Petitioners. Also present were Protestants in this matter. The Office of People's Counsel did not participate in these proceedings.

LMS: We are now in the deliberation stage of this case, and as is my normal practice as both the chairman of this particular Board and as an attorney, I always wish the record to reflect that in my feeling the open deliberation aspect of the law is one that I have never fully ascribed to. It's a creature of statute; a rule of the Circuit Court. I have made no secret of the fact that I think that in most cases it works to the detriment of the good; the carrying out of our duties, and that if our brethren and sisters in the Circuit Court, the Court of Special Appeals and the Court of Appeals had to labor under the same conditions, they might have more than a little difficulty with it. Having made those comments, and the law and case law requires that we do so, I will then continue.

We have here a simple issue - whether a variance in this property shall be granted. The county code is very clear, and I am looking to 307.1 of the zoning regulations that says in part that a variance such as the one requested here will be granted "...only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance with the zoning regulations for Baltimore County would result in practical difficulty or unreasonable hardship."

It is essentially a two-prong test. In order to move to practical difficulty and unreasonable hardship part, you must first show the uniqueness of that particular land or structure which is the subject of the request. There is a case on point on variances which is the leading case, and the one we follow on the Board, *Cromwell v. Ward*, and it is a reported case in the Court of Special Appeals. I don't have the Maryland cite; unfortunately we get it early enough, but it's the 1994 session #617. It's the Maryland law as it now exists on variances; the unique aspect of it, and I'm referring to page 21 of that opinion:

Deliberation /Carroll Coleman, et ux /95-366-A

"In the zoning context the 'unique' aspect of a variance requirement does not refer to the extent of improvements upon the property, or upon neighboring property. 'Uniqueness' of a property for zoning purposes requires that the subject property have an inherent characteristic not shared by other properties in the area, i.e., its shape, topography, subsurface condition, environmental factors, historical significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or other similar restrictions...."

That is in fact the law as we understand it. There has been some testimony as to the water table difficulties. And that concerned me. As the members of the Board certainly remember, I raised some of those questions myself. There is in fact a general uniqueness to the area in that there are no basements. Those who do, have problems with them. That is a general uniqueness or condition to that area of the County. The language of the statute and of the case law is clear in my mind that it is not the entire area or section of the County or all those who are abutting higher water tables, but whether or not the particular Coleman property has inherent uniqueness to other properties in the area which would require that we go to the second step.

Again, referring to the *Cromwell* decision, we find that they are very, very clear that the Board is very restricted to construe the requirements of that statute and of the variance requirements. To not do so is in fact an arbitrary and illegal action by this Board. And in order to do what we are supposed to do we are guided by the premise in *Cromwell* - that variances are rare, that they should be rare; should not be done in anything but most unique. If it were not for that Order and if it were not for the very clear language, I certainly, and I'm sure other members have empathy for the situation, everybody needs more storage; would like to utilize property. Question raised as to whether or not other things could have been done on that property. Used same footprint on old garage, but no testimony if the property could have been wider, deeper, etc. It's the same property and same problems as entire area suffers from. It's not unique. And the law is very clear; allows us no leeway; allows little or no wiggle room to say that unless it is a particular uniqueness to Coleman house as opposed to others that would make it necessary to request or grant a variance, cannot get to the second issue.

Whether or not the Zoning Commissioner considered it is not relevant. Other uses to property not relevant. File is not relevant. The basic inescapable premise is that if you don't make number 1, you don't go to number 2. I am convinced by

Deliberation /Carroll Coleman, et ux /95-366-A

the testimony - that there certainly has been no testimony as to particular uniqueness of the Coleman lot or property such as to make it different from other homes in the area; unique in itself to go through the narrow doorway.

We are required and constrained to follow the law. *Cromwell v. Ward* is absolutely clear. It is in fact a reversal of an action of the Board granting a variance. And the restrictions of the Court are clear. For those reasons, I would deny the variance.

SDL: I would agree with Larry. Appellant did not address the first prong of 307.1; what was unique about his land or structure that would create hardship and justify the granting of a variance. There was no testimony regarding uniqueness. In fact, there was testimony that almost all the homes did not have basements. Uniqueness was not proved. Therefore the variance can be denied at that point. I would also, however, fail to find adequate evidence of hardship.

MW: I would agree with my colleagues that the variance should be denied for precisely the same reasons. I will only add that the Ward case in point is about a height variance; from that I would add one more thing:

"It is not the purpose of variance procedures to effect a legalization of a property owner's intentional or unintentional violations of zoning requirements. When administrative entities such as zoning authorities take it upon themselves to ignore the provisions of the statutes enacted by the legislative branch of government, they substitute their policies for those of the policy-makers. That is improper."

I think that ignoring the zoning regulations is not a reason for granting. I agree.

LMS: The variance has been denied unanimously. We will effect a written Opinion to that fact. Written appeal will be from that written Order to the Circuit Court.

Respectfully submitted,

Kathleen C. Bianco
Kathleen C. Bianco
Administrative Assistant

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director DATE: February 10, 1997
Permits & Development Management

FROM: Charlotte E. Radcliffe,
County Board of Appeals

SUBJECT: Closed Files: Case Nos.
95-366-A /Carroll Coleman, et ux (12th; 7th)
96-24-A /Thomas Kreiner, Jr., et ux (15th; 5th)
96-31-SPH /Stephen Seymour (3rd; 2nd)
96-40-A /Joseph C. Nowakowski (15th; 7th)
96-63-A /Joseph E. Noet, et ux (13th; 1st)
96-118-SPHXA /Rocky Gorge at Grey Rock, L.P. and
Rocky Gorge Communities, Inc., G.P. (3rd; 2nd)
96-120-SPHA /Richmond American Homes and
Ruby Holzappel, et al (2nd; 2nd)
CBA-95-178 /Steinberg Property (DRC #07315M)
CBA-96-113 /Samuel Owings House (Permit #B240689)

As no further appeals have been taken regarding the subject cases, we are hereby closing the files and returning same to you herewith.

Attachments (Case File Nos. 95-366-A; 96-24-A; 96-31-SPH; 96-40-A;
96-63-A; 96-118-SPHXA; 96-120-SPHA; CBA-95-178; CBA-96-113)

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ANNAPOLIS OFFICE
220 PRINCE GEORGE STREET
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July 25, 1995

Baltimore County Zoning Commission
Office of Planning and Zoning
Room 111
Court House
400 Washington Avenue
Towson, Maryland 21204

Attention: Julie Wincarski

RE: Zoning Appeal - 1731 Drexel Road
Case No.: 95-366-A

Dear Ms. Wincarski:

Please be advised that on behalf of my clients, Carroll and Melinda Coleman we would respectfully appeal the zoning decision in the above-referenced matter. Enclosed you will find a check in the amount of \$75.00 to cover the zoning appeal.

Thank you for your consideration in this matter.

Very truly yours,

Robert C. Turner
Robert C. Turner

RCT/crs
Enclosure
cc: Mr. and Mrs. Carroll Coleman

RECEIVED
JUL 27 1995

ZADM

Zoning Administrator and
Development Management
111 W. Chesapeake Avenue
Room 109
Towson, MD 21204
RE CASE 95-366A

Zoning Administrator and Development Management

PLEASE PRINT CLEARLY PETITIONER(S) SIGN-IN SHEET

NAME ADDRESS

PLEASE PRINT CLEARLY PROTESTANT(S) SIGN-IN SHEET

NAME ADDRESS

NAME ADDRESS
STEVEN W. P. 1733 Drexel Rd 21222

PETITION AGAINST ZONING EXCEPTION

Re: Case 95-366A
1731 Drexel Road
Baltimore, MD 21222
(Edgepoint)

We, the undersigned, residents of Drexel Road, in Baltimore County, the state of Maryland wish to express our concerns about the possible granting of an exception to the zoning height limitation of fifteen feet (15') for a garage/storage structure to twenty-two feet (22') referenced in case 95-366A.

Our concern is that it is very unusual for one to need a twenty-two foot (22') high garage for storage for a one family residential unit in a residential district. The petitioner for this exception is in the vehicle mechanic and towing service profession. It is our concern that if the exception is approved, the petitioner will be using this building for a business (most likely a vehicle repair and maintenance facility). In fact, it has been noticed that there has been excessive vehicle activity at the address of the petitioner (1731 Drexel Road) since the construction of the building in question. It is our understanding that there were previous problems with the petitioner attempting to perform his trade activities at the referenced residential area address. It also is noted that the petitioner for this exception is parking his flat bed tow truck on the community street on a curve where the corner of the flat bed sticks out in the roadway causing a hazard to individuals driving by. We beg for your attention to this matter in hopes that the request for exception will be denied. At the least we request that enforceable restrictions be placed on the use of the building limiting use to residential personal vehicle and/or personal property storage only. Our preference however, is that the petition for exception to zoning be denied.

Signature Print Name Address
Signature Print Name Address
Signature Print Name Address
Signature Print Name Address
Signature Print Name Address

RECEIVED
MAY 10 1996
ZADM

Pet. 5A

February 6, 1996

We, the undersigned, have no objection to the added height caused by adding the second story to the Coleman's garage at their home at 1731 Drexel Road.

NAME: ADDRESS:

NAME ADDRESS
Mr. & Mrs. Stephen P. 1733 Drexel Rd 21222
Mr. & Mrs. J. P. 1733 Drexel Rd 21222
Mr. & Mrs. J. P. 1733 Drexel Rd 21222
Mr. & Mrs. J. P. 1733 Drexel Rd 21222
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Mr. & Mrs. J. P. 1733 Drexel Rd 21222
Mr. & Mrs. J. P. 1733 Drexel Rd 21222
Mr. & Mrs. J. P. 1733 Drexel Rd 21222

Pet. 5B

February 6, 1996

We live directly next door to the Coleman's at 1733 Drexel Road and know for a fact that their home garage is not and does not plan to be used for any type of business.

The garage is for storage purpose only.

Mr. & Mrs. J. P. 1733 Drexel Rd

